INDEX

TO

Punjab Government Gazette

FOR HALF YEAR ENDING

30TH JUNE 1903.

PART II.

Public Works Department, Buildings and Roads Branch—Part II.

NAMES.	Reversions.	Postings and Appointments.	Leave.	Transfers.	Promotions.	Passed Examinations.	Resignations.	Cancelments.	Reductions of rank.	Dismissals, Removals or Retirements.	Confirmations of retirements or officiating in higher appointments.	Taking and giving over charge and leaving and joining Divisions, &c.	Services placed at disposal of the Military or any other Department.
A.													
Abbott, Lieutenant-Colonel H.E.S., D.S.O., R.E., Superintending Engineer.	...	120	...	...	51, 120	...	...	...	...	...	...	...	...
B.													
Baij Náth, Assistant Engineer	...	...	...	...	...	...	...	...	...	...	...	...	83
Barratt, C. H., Executive Engineer.	51	...	...	...	...	...	...	...	...	...	...	...	...
C.													
Chandu Lál, B., Executive Engineer.	...	...	...	...	...	...	...	...	...	...	...	...	110
D.													
Dennys, E. A., Examiner, Public Works Accounts.	114	...	68	...	114, 169	...	...	...	...	...	...	...	...
Dharm Singh, Soin, R.S., Assistant Engineer.	...	...	...	...	...	...	...	...	...	37	...	...	...

G.													
Ganga Rám, Rái Bahádur, Executive Engineer.	...	...	...	...	...	...	...	...	...	...	...	...	167
Goument, C. E. V., Executive Engineer.	...	...	...	...	51	...	...	...	...	...	...	...	...
Granville, H. C., Executive Engineer.	...	166	...	...	166	...	...	...	...	...	...	...	...
L.													
Lacey, J. E., Examiner of Accounts.	...	...	...	...	11, 66	...	...	...	...	...	...	...	...
M.													
Murray, F. C., Superintending Engineer.	50	...	...	...	51	...	...	...	...	...	...	...	...
O.													
Ogilvie, Lieutenant D., R. E., Assistant Engineer.	...	...	...	...	...	...	...	...	...	...	...	...	66
T.													
Thurburn, Colonel J. W., R.E., Chief Engineer.	...	...	...	...	50, 51	...	...	...	...	...	...	...	...
W.													
Wright, A. L., Examiner of Accounts.	...	68	...	...	...	...	...	...	...	...	...	...	...

Public Works Department, Irrigation Branch—Part II.

Names.	Reversions.	Postings and Appointments.	Leave.	Transfers.	Promotions.	Passed Examinations.	Resignations.	Cancelments.	Reductions of rank.	Dismissals, Removals or Retirements.	Confirmation of retirements or officiating in higher appointments.	Taking and giving over charge and leaving and joining Divisions, &c.	Services placed at disposal of the Military or any other Department.
A.													
Ambica Prasád, Assistant Engineer.	...	20	...	...	...	...	...	...	...	...	...	...	...
B.													
Baij Náth, Lála, Assistant Engineer.	...	...	...	83	...	...	...	...	...	...	...	...	...
Baker, Mr. H. V. S., Superintending Engineer.	...	...	...	...	51	...	...	...	...	...	...	...	...
Benton, Mr. J., Chief Engineer	...	...	...	...	50	...	...	...	...	...	...	...	...
Brodie, Mr. W. Superintending Engineer.	50	...	...	..	...	...	...	...	...	...	...	...	...
F.													
Field, Mr. G. M. R., Superintending Engineer.	50	..	...	...	...	..	...	...	...	...	...	...	31
Frost, Mr. H. F. B., Executive Engineer.	...	...	...	...	51	...	...	...	...	...	47	...	...

G.													
Glass, Mr. E. L., Assistant Engineer.	...	20	...	...	...	...	...	...	...	...	...	...	...
H.													
Hatten, Mr. J. J., Executive Engineer.	50	34	...	...	51	...	...	...	...	...	34	...	...
J.													
Jacob, Mr. L. M., Superintending Engineer.	50	...	...	...	50	...	...	...	...	...	...	...	...
K.													
Kennedy, Mr. R. G., Superintending Engineer.	...	...	...	20	...	...	...	...	...	...	20	...	...
M.													
Mullaly, Mr. J. J., Superintending Engineer.	...	...	...	...	50	...	...	...	...	...	...	...	...
P.													
Pargiter, Mr. E. H., Superintending Engineer.	50	...	...	...	50, 51	...	...	...	...	...	...	...	...

Punjab Government Press, Lahore—2-9-03—625.

INDEX

TO

Punjab Government Gazette

FOR HALF YEAR ENDING

31ST DECEMBER 1903.

PART II.

Public Works Department, Buildings and Roads Branch—Part II.

NAMES.	Reversions.	Postings and Appointments.	Leave.	Transfers.	Promotions.	Passed Examinations.	Resignations.	Cancelments.	Reductions of rank.	Dismissals, Removals, or Retirements.	Confirmations of retirements or officiating in higher appointments.	Taking and giving over charge, and leaving and joining Divisions, &c.	Services placed at disposal of the Military or any other Department.
A.													
Abbott, Lieutenant-Colonel H. E. S., D.S.O., R. E., Superintending Engineer.	303	...	...	...	267	...	...	...	...	...	...	...	...
B.													
Bagley, W. A., Executive Engineer.	...	216	...	...	...	...	...	...	...	...	...	...	..
Báwa Budh Singh, Assistant Engineer.	...	326	...	...	...	...	...	...	...	...	...	...	...
D.													
Dennys, E. A., Examiner, Public Works Accounts.	...	295	...	...	...	...	...	...	...	...	...	...	...
G.													
Ganga Rám, Rái Bahádur, Executive Engineer.	...	...	...	...	...	...	...	...	...	324	...	...	...
Granville, H. C., Executive Engineer.	303, 308	303	...	...	267	...	...	...	...	...	...	...	...

PUBLIC WORKS DEPARTMENT, IRRIGATION BRANCH—PART II.

NAMES.	Reversions.	Postings and Appointments.	Leave.	Transfers.	Promotions.	Passed Examinations.	Cancellations.	Reduction of rank.	Dismissals, Removals or Retirements.	Confirmation of retirements or officiating in higher appointments.	Taking and giving over charge and leaving and joining Divisions, &c.	Services placed at the disposal of the Military or any other Department.
B.												
Baker, Mr. H. V. S., Superintending Engineer ...	...	...	...	...	308	...	...	...	...	...	...	...
F.												
Farrant, Mr. J. T., Superintending Engineer ...	...	...	...	...	308	...	...	...	...	223	...	...
Field, Mr. G. M. R., Superintending Engineer ...	...	...	...	...	308	...	...	...	...	...	...	...
H.												
Hatten, Mr. J. J., Superintending Engineer ...	...	...	...	...	273, 308	...	...	...	...	...	...	...
J.												
Jacob, Mr. L. M., Superintending Engineer ...	...	...	...	...	267, 273	...	...	...	...	...	...	...
Johnston, Mr. H. J., Executive Engineer ...	...	...	...	...	308	...	...	...	...	244	...	...
K.												
Kennedy, Mr. R. G., Superintending Engineer ...	...	...	...	...	267, 308	...	...	...	...	...	...	...
P.												
Pargiter, Mr. E. H., Superintending Engineer ...	...	...	...	...	308	...	...	...	...	...	...	...
R.												
Ross, Mr. W. C., Assistant Engineer ...	...	...	...	...	...	...	...	...	324	...	...	...
S.												
Stuart, Mr. J. D., Assistant Engineer ...	...	...	...	318	...	...	...	...	...	...	...	...

REPUBLICATIONS IN THE PUNJAB GOVERNMENT GAZETTE, PAPT II, OF NOTIFICATIONS BY THE GOVERNMENT OF INDIA, PUBLIC WORKS DEPARTMENT, IRRIGATION, ROADS AND BUILDINGS.

Punjab Government Press, Lahore—3-3-04—632.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JANUARY 1, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED DECEMBER 27, 1902.

HOME DEPARTMENT.

NOTIFICATION.

ESTABLISHMENTS.

Calcutta, the 24th December 1902.

No. 774.—Sir A. F. D. Cunningham, K.C.I.E., has been permitted to resign His Majesty's Indian Civil Service, with effect from the 13th November 1902.

H. H. RISLEY,

Offg. Secretary to the Government of India.

Panjab Government Press, Lahore—1-1-03—635.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JANUARY 8, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED JANUARY 3, 1903.

KAISAR-I-HIND MEDAL.

NOTIFICATIONS.

Camp Delhi, the 1st January 1903.

No. 1.—His Excellency the Viceroy and Governor-General of India is pleased to announce that the KING-EMPEROR has been graciously pleased to award the Kaisar-i-Hind Medal for Public Service in India of the First Class to—

* * * * * * * *

The Reverend Samuel Scott Allnutt, M.A., Cambridge Mission, Delhi.

* * * * * * * *

Clarence Kirkpatrick, Esquire, Barrister-at-Law, Member of the Municipal Committee of Delhi.

* * * * * * * *

Major David Semple, M.D., R.A.M.C., Director of the Pasteur Institute, Kasauli.

* * * * * * * *

His Excellency the Viceroy and Governor-General is pleased to award the Kaisar-i-Hind Medal for Public Service in India of the Second Class to—

* * * * * * * *

Miss F. Joss, Church of Scotland Mission, Gujrat, Punjab.

* * * * * * * *

Bhai Ram Singh, Vice-Principal, Mayo School of Art, Lahore, Punjab.

* * * * * * * *

H. H. RISLEY,

Offg. Secretary to the Government of India,
Home Department.

HOME DEPARTMENT.

JAILS.

Camp Delhi, the 1st January 1903.

RESOLUTION.

No. 1.—The Governor-General in Council has been pleased to issue orders as follows for the release, as an act of clemency and grace, of a certain number of prisoners, both criminal and civil, and the remission of a portion of the sentences of other prisoners in all the jails throughout British India, and in the Penal Settlement of Port Blair, on the auspicious occasion of the Coronation of the KING-EMPEROR.

2. Local Governments and Administrations have been desired to release on this day 10 per cent. of all the convicts under sentence, provided that their conduct during imprisonment has been good and that their release is not likely to give rise to a revival of blood feuds or professional crime. Under these orders 9,123 offenders will be released. Special consideration has been given to the question of the release of Burmans convicted of dakaiti and similar offences during the disturbances which followed the annexation of Upper Burma, and the release of 127 such convicts has been decided on. Apart from the foregoing concession, His Excellency in Council has, as additional measures of clemency and grace, directed the release (1) of 1,238 female convicts whose offences were not of a serious nature; (2) of 4,909 persons under sentence of one month's imprisonment or less who have on this day worked out half their sentence; and (3) of 276 persons under sentence of not more than six months' imprisonment, whose offences were more or less attributable to conditions of scarcity. The Governor-General in Council has also directed the absolute release of 352 male and female convicts in the Andamans, and the conditional release of 31 convicts under sentence of dakaiti. The total number of convicts of all classes at Port Blair who will be released in connection with the celebration of the Coronation of the KING-EMPEROR will thus be nearly 400.

3. The Governor-General in Council has also been pleased to extend a measure of grace and clemency to convicts in Indian Jails who in the interests of society cannot now be released, by directing that they be granted remissions of their punishments, graduated according to the character of the sentence in each case, which may extend to a month's remission for each year of imprisonment passed in jail. His Excellency in Council has further sanctioned, in the case of all well-behaved convicts in the Penal Settlement of Port Blair, certain concessions which will mitigate the severity of their sentences and will improve their prospects of earning further privileges by continued good behaviour.

4. The Governor-General in Council has been pleased to order the release of all persons confined in prison in execution of decrees of the Civil Courts whose debts do not exceed the sum of Rs. 100, provided that they are poor and not fraudulent; and the payment by Government of the debt or debts for which they are detained. One hundred and thirty-two civil prisoners will accordingly be discharged, and their debts aggregating Rs. 8,590 will be paid by Government.

5. The total number of prisoners who will to-day be released from British Jails, including the Andamans, is 16,188.

SANITARY.

PLAGUE.

The 31*st December* 1902.

No. 2644.—Whereas the Governor-General in Council is satisfied that the Allahabad District of the United Provinces is visited by an outbreak of dangerous epidemic disease and that there is a danger of its spread, if pilgrims or other persons from the Salem, Bellary, Coimbatore, North Arcot and Kurnool Districts of the Madras Presidency, the Bombay Presidency (including Sind), Calcutta and the Districts of Monghyr, Shahabad, Saran, Patna, Muzaffarpur and Darbhanga in Bengal, the Punjab, the Nimar District of the Central Provinces, the Mysore and Baroda States, the Districts of Aurangabad, Oosmanabad and Raichur of the Hyderabad State, the Districts of Akola and Buldana in Berar, the Indore State in Central India and the Poonch District of the Kashmir State are permitted to assemble at that place on the occasion of the ensuing Magh Mela during the months of **January and February 1903**:

In exercise of the power conferred by section 2, sub-section (1), of the Epidemic Diseases Act, 1897 (III of 1897), the Governor-General in Council is pleased to direct that no tickets to travel by railway to the stations of Allahabad, Naini, Karchana, Jasra and Bamhrauli on the East Indian Railway shall be sold during the months of January and February 1903 within the Salem, Bellary, Coimbatore, North Arcot and Kurnool Districts of the Madras Presidency, the Bombay Presidency (including Sind), Calcutta and the Districts of Monghyr, Shahabad, Saran, Patna, Muzaffarpur and Darbhanga in Bengal, the Punjab, the Nimar District of the Central Provinces, the Mysore and Baroda States, the Districts of Aurangabad, Oosmanabad and Raichur of the Hyderabad State, the Districts of Akola and Buldana in Berar, the Indore State in Central India and the Poonch District of the Kashmir State to any pilgrim or other person intending or believed to be intending to proceed on pilgrimage to the Magh Mela at Allahabad.

H. H. RISLEY,

Offg. Secretary to the Government of India.

FOREIGN DEPARTMENT.

NOTIFICATION.

Camp Delhi, the 1st January 1903.

No. 1-*I. A.*—The following additions to the table of Salutes to Native Princes and Chiefs have been approved by His Majesty's Government, and are published for general information :—

Permanent Salutes.

The Nawab of Janjira	11 guns.
The Sawbwa of Keng Tung	9 "
The Sawbwa of Möng Nai	9 "
The Sawbwa of Hsi Paw	9 "

Personal Salutes.

Shankar Rao Chimnaji, Pant Sachiv of Bhor	9 guns.
Maharana Jaswant Singhji Hari Singhji of Danta ...	9 "
Nawab Sir Amir-ud-din Ahmad Khan Bahadur, K.C.I.E., of Loharu	9 "

L. W. DANE,

Offg. Secretary to the Government of India.

STAR OF INDIA.

NOTIFICATIONS.

Camp Delhi, the 1st January 1903.

No. 1-*S. I.*—The KING-EMPEROR has been graciously pleased to make the following promotions in and appointments to the Most Exalted Order of the Star of India, on the occasion of the Darbar to be held this day at Delhi in His Majesty's Indian Empire, in commemoration of His Majesty's Coronation :

* * * * * *

To be Knights Commanders.

The Hon'ble Mr. Denzil Charles Jelf Ibbetson, C.S.I., Indian Civil Service, an Ordinary Member of the Council of the Governor-General.

* * * * * *

Kunwar Ranbir Singh, of Patiala.

To be Companions.

* * * * * *

Lieutenant-Colonel James Alexander Lawrence Montgomery, Indian Staff Corps, Commissioner of the Rawalpindi Division of the Punjab—a Member of the Police Commission.

* * * * * *

Sardar Badan Singh, of Malaudh in the Ludhiana District of the Punjab.

No. 2-S. I.—It had been the KING-EMPEROR'S intention to appoint His Highness Raja Bije Sen Bahadur, of Mandi, to be a Knight Commander of the Most Exalted Order of the Star of India. Raja Bije Sen died on the 10th December.

By order of the Grand Master,

H. S. BARNES,

Secretary to the Most Exalted Order of the Star of India

INDIAN EMPIRE.

NOTIFICATION.

Camp Delhi, the 1st January 1903.

No. 1-I. E.—The KING-EMPEROR has been graciously pleased to make the following promotions in and appointments to the Most Eminent Order of the Indian Empire, on the occasion of the Darbar to be held this day at Delhi in His Majesty's Indian Empire, in commemoration of His Majesty's Coronation :—

To be Knights Grand Commanders.

* * * * * *

His Highness Farzand-i-Arjumand Akidat Paiwand Daulat-i-Inglishia Barar Bans Sarmur Raja-i-Rajagan Raja Sir Hira Singh Malwandar Bahadur, G.C.S.I., of Nabha.

To be Knights Commanders.

* * * * * *

The Hon'ble Mr. Charles Lewis Tupper, C.S.I., Indian Civil Service, Financial Commissioner of the Punjab, and a Member of the Council of the Lieutenant-Governor of the Punjab for making Laws and Regulations.

* * * * * *

To be Companions.

* * * * * *

The Hon'ble Mr. Pratul Chandar Chatterji, Rai Bahadur, Judge of Chief Court of the Punjab.

* * * * * *

Douglas Donald, Esquire, Commandant of the Borde r Military Police and Samana Rifles, Kohat.

* * * * * *

Nawab Fateh Ali Khan, Kazilbash, of Lahore.

* * * * * *

By order of the Grand Master,

H. S. BARNES,

Secretary to the Most Eminent Order of the Indian Empire.

FOREIGN DEPARTMENT.

NOTIFICATIONS.

Camp Delhi, the 1st January 1903.

No. 3-I. A.

The KING-EMPEROR has been pleased to confer the honour of Knighthood on—

* * * * * *

The Hon'ble Mr. William Ovens Clark, Indian Civil Service, Chief Judge of the Chief Court of the Punjab.

* * * * * *

No. 12-I. A.

His Excellency the Viceroy and Governor-General is pleased to confer the title of Shams-ul-Ulama as a personal distinction upon—

* * * * * *

Mufti Maulvi Abdulla, of the Oriental College, Lahore.

Maulvi Abdul Hakim, of the Oriental College, Lahore.

No. 15-I. A.

His Excellency the Viceroy and Governor-General is pleased to confer the title of Sardar Bahadur as a personal distinction upon—

* * * * * *

Risaldar Partab Singh, Extra Assistant Commissioner in the Punjab

No. 17-I. A.

His Excellency the Viceroy and Governor-General is pleased to confer the title of Khan Bahadur as a personal distinction upon—

Khan Sahib Din Muhammad, Extra Assistant Commissioner, Kasur, in the Lahore District of the Punjab.

* * * * * *

No. 19-I. A.

His Excellency the Viceroy and Governor-General is pleased to confer the title of Rai Bahadur as a personal distinction upon—

* * * * * *

Lala Nand Kishor, Inspector of Schools, Jullundur Circle, Punjab.

Lala Moti Ram, Extra Assistant Commissioner, Mooltan, in the Punjab.

No. 22-I. A.

His Excellency the Viceroy and Governor-General is pleased to confer the title of Rai Sahib as a personal distinction upon—

* * * * * *

Lala Ralla Ram, Honorary Assistant Examiner, Public Works Accounts, Punjab.

* * * * * *

Lala Kunj Behari, Thapar, Secretary of the Punjab Public Library, Lahore.

* * * * * *

Lala Janki Pershad, Supervisor, Public Works Department, Simla.

* * * * * *

Babu Hari Chand, Sub-Engineer, Kalka-Simla Railway.

* * * * * *

No. 26-I. A.

The following concessions have been sanctioned by His Excellency the Viceroy and Governor-General in Council as rewards for distinguished services, and are published for general information :—

* * * * * *

To Mr. J. P. Warburton, late District Superintendent of Police, Punjab.	The remission of the *nazarana* payable on 20 squares of land on the Chenab Canal.
To Rai Bahadur Daulat Ram, C.I.E., Superintendent of Post Offices, Simla Division.	The remission of the *nazarana* payable on 15 squares of land on the Jhelum Canal.
To Khan Bahadur Ahmad Yar Khan, Wazir to the Jam of Las Bela.	The remission of the *nazarana* payable on 15 squares of land on the Jhelum Canal.

* * * * * *

L. W. DANE,

Officiating Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

SEPARATE REVENUE.

COTTON DUTIES.

The 29th December, 1902.

No. 6948 *S. R.*—In exercise of the power conferred by section 7 of the Cotton Duties Act, 1896 (II of 1896), and in supersession of the Notification in this Department, No. 158 S. R., dated the 9th January 1902, the Governor-General in Council is pleased to fix, for the descriptions of cotton goods hereunder specified, tariff values as follows with effect from the 1st February 1903:—

Grey goods, plain or bordered.

		Tariff value per lb. A.	P.
1.	Blankets and blanketings, raised	8	0
2.	Chadars and bed sheets, plain, or with borders not over ¼"	7	0
3.	Dangari cloth, including khadi	7	0
4.	Dhutis, cholas or sallas, dupattas, and lungis, plain, or with borders not over ¼"	7	6
5.	" " " " " " " " (calendered)	7	9
6.	" " " " " " " " with borders over ¼" but not over 1½" ...	8	6
7.	Domestics, T cloths, shirtings, longcloth, sheetings with borders not over ¼"	7	0
8.	" " " " " " " " (calendered)	7	6
9.	Drills and jeans, plain	7	0
10.	Fents	6	0
11.	Jaconets, unbleached	10	9
12.	" bleached	11	9
13.	Madapollams, unbleached	9	0
14.	" bleached	9	9
15.	Mulls, unbleached	11	0
16.	" bleached	12	0
17.	Printers	7	6
18.	" (bhagavad)	7	3
19.	Shirtings, twilled, unbleached	8	9
20.	" " bleached	9	9
21.	Tent, sail, commissariat, and double cloth (dosuti)	6	6
22.	Zanzibar cloth, including American cloth ...	7	0

	Figured or coloured goods.	*Tariff value per lb.* A.	P.
23.	Bed-covers, quilts, twilled sheets, twilled chadars, and table cloths, with borders not over ¼" ...	7	6
24.	,, ,, ,, ,, ,, ,, ,, coloured warp or weft	8	6
25.	,, ,, ,, ,, ,, ,, ,, coloured warp and weft	9	3
26.	Bed ticking, plain or drilled	8	6
27.	Blankets and blanketings, raised	8	6
28.	Chadars, twilled, coloured (shawl checks) ...	12	6
29.	,, not twilled, coloured, calico wove, shawl pattern	10	3
30.	Cholis and saris (coloured)	10	0
31.	Cotton tweed, commonly called hunting cloth, plain or striped, including leheria, Thana susi, Thana twill and Thana check	10	0
32.	Cotton tweed, known as English checks, trouserings, and coatings	10	3
33.	Drills and jeans, striped	8	3
34.	,, ,, checked	9	0
35.	,, ,, khaki dyed	11	0
36.	Fents	7	0
37.	Leno and ventula cloth	8	9
38.	Lungis unbleached, coloured stripes and borders	9	6
39.	,, coloured	12	0
40.	Madras cloth	9	3
41.	,, ,, (imitation)	9	0
42.	,, ,, twilled, checked, coloured warp and weft	9	6
43.	,, ,, handkerchiefs or lungis ...	12	0
44.	Napkins, unbleached	7	9
45.	,, bleached	9	0
46.	Susi, ordinary, coloured stripes	8	3
47.	,, ,, ,, weft	8	9
48.	,, fancy dobby pattern and ordinary susi checks	9	6
49.	,, ,, ,, ,, ,, coloured warp or weft ...	10	6
50.	,, ,, flannel pattern, grey weft ...	8	9
51.	,, ,, ,, ,, coloured weft ...	9	3
52.	Towels, Turkish, unbleached	8	9
53.	,, ,, bleached	9	9
54.	,, ,, honeycomb, unbleached ...	7	9
55.	,, ,, ,, bleached ...	8	9
56.	Zephyr cloth	9	6
57.	,, ,, striped and checked	10	6

Provided that any goods specified in the foregoing lists shall, when woven with borders of silk, be assessed to duty *ad valorem*.

E. N. BAKER,

Offg. Secretary to the Government of India.

Punjab Government Press, Lahore—8-1-03—635.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JANUARY 15, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED DECEMBER 27, 1902.

PUBLIC WORKS DEPARTMENT.

RAILWAYS.

NOTIFICATIONS.

Calcutta, the 23rd December 1902.

No. 494.—It is hereby notified for general information that the Government of India have sanctioned a survey being made, by the agency of the North-Western Railway Administration, for a line of railway from McLeodganj to Ferozepore, a distance of about 90 miles.

The 26th December 1902.

No. 495.—The following promotions and reversions are ordered in the Superior Accounts Branch:—

Name.	From	To	Nature of Promotion.	With effect from
. . .	. .	. .	. .	. .
J. E. Lacey ...	Examiner, Class IV, 3rd Grade, *temporary*.	Examiner, Class IV, 3rd Grade.	Sub. *pro tem.* ...	28th October 1902.
. . .	. .	. .	. .	. .

C. W. HODSON,

Offg. Secretary to the Government of India.

FROM THE "GAZETTE OF INDIA," DATED JANUARY 10, 1903.

MILITARY SECRETARY'S OFFICE.

NOTIFICATION.

Delhi, the 3rd January 1903.

No. 305-*M*.—His Excellency the Viceroy and Governor-General will leave Delhi at 11-15 A.M. on Saturday, the 10th January 1903. His Excellency's departure from Delhi will be public.

* * * * * * * *

By Command,

E. BARING, LIEUT.-COLONEL,

Military Secretary to the Viceroy.

ORDERS OF THE STAR OF INDIA AND THE INDIAN EMPIRE.

NOTIFICATION.

Fort William, the 9th January, 1903.

No. 3-*S. I.*—His Excellency the Grand Master of the Most Exalted Order of the Star of India and of the Most Eminent Order of the Indian Empire held a Grand Chapter of both Orders in the Dewan-i-Am, at Delhi, at 9 P.M., on Saturday, the 3rd January, 1903. His Royal Highness the Duke of Connaught, Knight Grand Commander of both Orders, was present.

At this ceremony His Excellency the GRAND MASTER, in accordance with His Majesty's Commands, first invested HIS HIGHNESS RAJA SIR RAMA VARMA, K.C.S.I., of Cochin, with the Insignia of the FIRST CLASS; and HIS HIGHNESS RAJA SURINDAR BIKRAM PRAKASH BAHADUR, of Sirmur; the HONOURABLE LIEUTENANT-COLONEL DAVID WILLIAM KEITH BARR, C.S.I., Indian Staff Corps; the HONOURABLE MR. DENZIL CHARLES JELF IBBETSON, C.S.I., Indian Civil Service; HIS EXCELLENCY REAR-ADMIRAL CHARLES CARTER DRURY, Royal Navy; the HONOURABLE MR. HENRY MARTIN WINTERBOTHAM, C.S.I., Indian Civil Service; the HONOURABLE MR. JAMES MONTEATH, C.S.I., Indian Civil Service; the HONOURABLE LIEUTENANT-COLONEL DONALD ROBERTSON, C.S.I., Indian Staff Corps; the HONOURABLE MR. ANDREW HENDERSON LEITH FRASER, C.S.I., Indian Civil Service; HUGH SHAKESPEAR BARNES, Esq., C.S.I., Indian Civil Service;

COLONEL SIR COLIN CAMPBELL SCOTT-MONCRIEFF, K.C.M.G., C.S.I., Royal Engineers (retired); HIS HIGHNESS RAJA KIRTI SAH, C.S.I., of Tehri; and KUNWAR RANBIR SINGH, of Patiala, with the Insignia of the SECOND CLASS of the MOST EXALTED ORDER of the STAR of INDIA: and *decorated* the HONOURABLE MR. CHARLES GERWIEN BAYNE, Indian Civil Service; the HONOURABLE MR. THOMAS RALEIGH; the HONOURABLE MR. JAMES THOMSON, Indian Civil Service; the HONOURABLE MR. JOSEPH BAMPFYLDE FULLER, C.I.E., Indian Civil Service; the HONOURABLE SIR EDWARD FITZGERALD LAW, K.C.M.G.; the HONOURABLE MR. CHARLES STUART BAYLEY, Indian Civil Service; the HONOURABLE MR. EDWARD TOWNSHEND CANDY, Indian Civil Service; MAJOR-GENERAL TREVOR BRUCE TYLER, Royal Artillery; the HONOURABLE MR. WILLIAM HENRY LOCKINGTON IMPEY, Indian Civil Service; the HONOURABLE MR. WILLIAM CHARLES MACPHERSON, Indian Civil Service; MAJOR HUGH DALY, C.I.E., Indian Staff Corps; RAJA BUN BIHARI KAPUR, of Burdwan; NAWAB MUMTAZ-UD-DAULA MUHAMMAD FAIYAZ ALI KHAN; and SARDAR BADAN SINGH, of Malaudh, with the Badge of the THIRD CLASS of the same Order.

His Excellency then *invested* HIS HIGHNESS MAHARAO SIR KESRI SINGH BAHADUR, K.C.S.I., of Sirohi; HIS HIGHNESS MAHARAJA SIR BALA RAMA VARMA, G.C.S.I., of Travancore; and HIS HIGHNESS RAJA SIR HIRA SINGH BAHADUR, G.C.S.I., of Nabha, with the Insignia of the FIRST CLASS, and NAWAB SHAHBAZ KHAN, Bugti; JAMES GEORGE SCOTT, Esq., C.I.E.; HIS HIGHNESS MAHARAJA MALKHAN SINGH BAHADUR, of Charkhari; the HONOURABLE MAHARAJA RAMESHWARA SINGH BAHADUR, of Darbhanga; THOMAS HIGHAM, Esq., C.I.E., M.I.C.E.; COLONEL SAMUEL SWINTON JACOB, C.I.E., Indian Staff Corps; the HONOURABLE SIR LAWRENCE HUGH JENKINS, KT.; the HONOURABLE MR. HERBERT THIRKELL WHITE, C.I.E., Indian Civil Service; the HONOURABLE MR. CHARLES LEWIS TUPPER, C.S.I., Indian Civil Service; SURGEON-GENERAL BENJAMIN FRANKLIN, C.I.E., Indian Medical Service; WALTER ROPER LAWRENCE, Esq., C.I.E., Indian Civil Service (retired); JOHN ELIOT, Esq., C.I.E.; RAJA DHIRAJ NAHAR SINGHJI, of Shahpura; GANGADHAR RAO GANESH *alias* BALA SAHIB PATWARDHAN, Chief of Miraj (Senior Branch); SARDAR GHAUS BAKHSH, Raisani; MAHARAJA HARBALLABH NARAYAN SINGH BAHADUR, C.I.E., of Sonbursa; MAHARAJA PESHKAR KISHAN PARSHAD; and PURNA NARASINGHARAO KRISHNA MURTI, C.I.E., with the Insignia of the SECOND CLASS of the MOST EMINENT ORDER of the INDIAN EMPIRE: and *decorated* Rao Bahadur C. JAMBULINGAM MUDALIYAR; LIEUTENANT COLONEL THOMAS ELWOOD LINDSAY BATE, Indian Medical Service; JOHN BENTON, Esq. M.I.C.E; RAO BAHADUR PANDIT SUKHDEO PARSHAD; MAJOR HERBERT LIONEL SHOWERS, Indian Staff Corps; MAJOR PERCY ZACHARIAH COX, Indian Staff Corps; BABU NALIN BIHARI SIRCAR; FREDERICK GURR MACLEAN, Esq., M.I.C.E; ALGERNON ELLIOTT, Esq.; LIEUTENANT-COLONEL WILLIAM LOCH, General List, Infantry; LIEUTENANT-COLONEL JOHN HODDING, V. D.; HENRY KING BEAUCHAMP, Esq.; HARJIBHAI MANEKJI RUSTOMJI, Esq.; NAWAB MUHAMMAD SHARIF KHAN, of Dir; MEHTAR SHUJA-UL-MULK, of Chitral; MIR MUHAMMAD NAZIM KHAN, Mir of Hunza; RAJA SIKANDAR KHAN, of Nagar; WILLIAM DICKSON CRUICKSHANK, Esq.; JOHN O'BRIEN SAUNDERS, Esq.; HENRY WENDEN, Esq.; RAO BAHADUR SHYAM SUNDAR LAL; DIWAN BAHADUR MUNSHI BALMUKUND DAS; ROBERT HERRIOT HENDERSON, Esq.; NAWAB HAFIZ MUHAMMAD ABDULLA KHAN, Alizai; NAWAB FATEH ALI KHAN, Kazilbash; and FARIDOONJI JAMSHEDJI, Esq., with the Badge of the THIRD CLASS of the same Order.

The following members of the two Orders attended;—

H. H. the Raja of Nabha, G.C.S.I.
H. H. the Nizam of Hyderabad, G.C.S.I.
H. H. the Gaekwar of Baroda, G.C.S.I.
H. H. the Maharaja of Indore, G.C.S.I.
H. H. the Maharaja of Jaipur, G.C.S.I., G.C.I.E.
H. H. the Maharaja of Travancore, G.C.S.I.
H. H. the Maharaja of Jammu and Kashmir, G.C.S.I.
H. H. the Maharaja of Kolhapur, G.C.S.I.
H. H. the Maharaja of Gwalior, G.C.S.I.
H. H. the Maharaja of Rewa, G.C.S.I.
H. H. the Maharaja of Idar, G.C.S.I., K.C.B.
H. H. the Rao of Cutch, G.C.I.E.
H. H. the Maharaja of Cooch Behar, G.C.I.E., C.B.
H. H. the Nawab of Tonk, G.C.I.E.

H. H. the Khan of Kalat, G.C.I.E.
H H. the Maharaja of Karauli, G.C I.E.
H. H. the Mir of Khairpur, G.C.I.E.
H. H the Thakur Sahib of Gondal, G.C.I.E.
H. H the Thakur Sahib of Morvi, G.C I.E.
H. H. the Maharaja of Benares, G.C.I.E.
H. E. Lord Northcote, G.C.I.E , C.B
H. H. the Maharaja of Orchha, G.C.I E.
H. E. Lord Ampthill, G.C.I.E.
H. H. the Maharao Raja of Bundi, G.C.I.E., K.C.S.I.
Major-General Sir A. Gaselee, G C.I.E., K C.B.
H. H. Agha Sir Sultan Muhammad Shah, G.C.I E.
Raja Sir Amar Singh, of Kashmir, K.C.S.I.
The Hon'ble Sir F. W. R. Fryer, K.C.S.I.
H H. the Maharao of Sirohi, K.C.S.I.
The Thakur Sahib of Palitana, K.C.S.I.
Sir E. C. Buck, K.C.S I.
H. H. the Raja of Cochin, K.C.S.I.
H. H. the Raja of Kapurthala, K.C.S.I.
H. H. the Maharaja of Datia, K.C.S I.
Sir J. F. Price, K.C.S.I.
H. H. the Nawab of Junagarh, K.C.S.I.
H. H. the Maharao of Kota, K.C S.I.
The Hon'ble Sir C. M. Rivaz, K.C.S.I.
The Hon'ble Sir J. J. D. LaTouche, K.C.S.I.
The Sultan of Lahej, K.C.S.I.
The Thakur Sahib of Limri, K.C.I.E.
Sardar Sir Naoroz Khan, of Kharan, K.C I.E.
The Hon'ble Nawab Sir Imam Bakhsh Khan, Mazari, K.C.I.E.
The Nawab of Janjira, K.C.I.E.
Maharaja Sir Partab Narayan Singh of Ajudhya, K.C.I.E.
The Hon'ble the Maharaja of Gidhaur, K.C.I.E.
The Nawab of Loharu, K.C.I E.
Sir M. M. Bhownagree, K.C.I.E.
Baba Sir Khem Singh, Bedi, K.C.I.E.
The Hon'ble Sir F. W. Maclean, K.C.I.E.
The Hon'ble Kunwar Sir Harnam Singh, K.C.I.E.
H. E. Col. Sir E. A. R. Galhardo, K.C.I.E.
H. H. the Maharaja of Bikaner, K.C.I.E.
Raja Jai Krishan Das Bahadur, C.S.I.
Major General Beresford Lovett, C.B., C.S.I.
Col. L. J. H. Grey, C S.I.
Col. Sir C. C. Scott-Moncrieff, K.C.M.G., C.S.I.
The Hon'ble Col. C. E. Yate, C.S.I., C M.G.
The Rao of Alipura, C.S.I.
Sardar Jiwan Singh, of Shahzadpur, C.S I.
The Hon'ble Lt.-Col. D. W. K. Barr, C S.I.
The Hon'ble Mr. D. C. J. Ibbetson, C.S.I.
The Hon'ble Lt.-Col. H. A. Deane, C.S.I.
The Hon'ble Mr. C. L. Tupper, C.S I.
A H. L. Fraser, Esq., C.S.I.
H. S. Barnes, Esq., C.S.I. (Secretary of the two Orders).
J. M. Macpherson, Esq , C.S.I.
The Hon'ble Mr. J Monteath, C.S.I.
The Hon'ble Mr. C. W. Bolton, C.S I.
H. F. D. Moule, Esq., C.S I.
Col J A. Miley, C.S.I.
H. A. Anderson, Esq., C.S I.
Major A. H. McMahon, C.S.I., C.I.E.
S. B. Kashi Rao Sarve, C.S.I.
M. Finucane, Esq., C.S.I.
The Hon'ble Raja Tasadduk Rasul Khan, C S.I.
The Hon'ble Mr. J. A. Bourdillon, C.S.I.
The Hon'ble Mr. A. W. Cruickshank, C.S.I.
L W. King, Esq., C.S.I.
Khan Bahadur Yar Muhammad Khan, of Jaora, C.S.I.
The Hon'ble Mr. A. T. Arundel, C.S I.
The Hon'ble Lt.-Col. D. Robertson, C S.I.
H. H the Raja of Tehri, C S I.
The Hon'ble Mr. J. P. Hewett, C.S.I., C I.E.
Surgeon-Genl. D. Sinclair, C.S.I.
The Hon'ble Mr. H. M. Winterbotham, C.S.I.
The Hon'ble Mr. A. H. T. Martindale, C.S.I.
E. N. Baker, Esq., C.S.I.
The Hon'ble Mr. F. S. P. Lely, C.S.I.
J. O. Miller, Esq., C.S.I.
Brigadier Genl. G. L. R. Richardson, C B., C.S.I., C.I.E.
S. Ismay, Esq., C.S.I.
The Hon'ble Mr. D. T. Roberts, C.S.I.
The Hon'ble Mr. J. Wilson, C.S.I.
The Revd, E. Lafont, C I.E.
Mirza Ghulam Ahmad, C.I.E.
Sardar Sultan Jan, Saddozai, C.I.E.
R. B. Hittu Ram, C.I.E.
Hafiz Muhammad Hasan Khan, C.I.E.
G. Watt, Esq., C.I.E.
Col. Nawab M. Aslam Khan, C.I E.
Kumar Sri Kaluba, C.I.E.
Col. C. W. Muir, C.B., C.I,E.
Nawab Bahadur Saiyid Amir Husain, C.I.E.
Col. B. Scott, C I.E.
Lieut.-Col. J. L. Walker, C.I.E.
Ramkrishna Gopal Bhandarkar, C.I E.
H. P. Todd-Naylor, Esq., C.I.E.
Col. S. S. Jacob, C.I E.
Khan Bahadur S. Hafiz Abdul Karim, C.I.E.
The Hon'ble Mr. J. Buckingham, C.I.E.
W. R. Lawrence, Esq., C.I.E.
Col. T. H. Hendley, V.D., C I E.
Major F. E. Younghusband, C.I.E.
H. H. Risley, Esq. C.I E.
The Hon'ble Mr. J. B. Fuller, C I.E.
The Hon'ble Mr H. T. White, C.I.E.
Major H. Daly, C.I E.
J. G. Scott, Esq., C I E.
G. P. Rose, Esq., C.I.E.
K. B. Kadirdad Khan, C I.E.
Diwan Ganpat Rai, C.I E.
The Maharaja of Sonbarsa, C.I E.
Rao Sahib Thakur Bahadur Singh, of Masuda, C.I.E.

Shaikh Baha-ud-din Nawab-i-Am, C.I.E.
B. S. Carey, Esq., C.I.E.
The Hon'ble Diwan Bahadur S. Srinivasa Raghava Aiyangar, C.I.E.
The Hon'ble Mr. Phirozshah Merwanji Mehta, C.I.E.
P. G. Melitus, Esq., C.I.E.
The Hon'ble Lt.-Col. Sir G. M. J. Moore, KT., C.I.E.
Lt.-Col. E. H. Fenn, C.I.E.
J. S. Donald, Esq., C.I.E.
The Hon'ble Mr. F. J. E. Spring, C.I.E.
Fazalbhai Visram, C.I.E.
A. C. Hankin, Esq., C.I.E.
Khan Bahadur Hak Nawaz Khan, C.I.E.
Gangadhar Rao Madhav Chitnavis, C.I.E.
The Hon'ble Mr. C. E. Buckland, C.I.E.
The Hon'ble Mr. S. W. Edgerley, C.I.E.
T. R. A. Thambu Chetti, C.I.E.
Major W. R. Yeilding, C.I.E., D.S.O.
Munshi Hafiz Abdul Karim, C.I.E., C.V.O.
Sir Patrick Playfair, KT., C.I.E.
R. M. Dane, Esq., C.I.E.
Surgeon-Genl. B. Franklin, C.I.E.
T. Higham, Esq., C.I.E.
Raja Bhup Indra Bikram Singh, of Piyagpur, C.I.E.
The Hon'ble Rao Bahadur Chunilal Venilal, C.I.E.
The Hon'ble Mr. A. Anderson, C.I.E.
J. Eliot, Esq., C.I.E.
Khan Bahadur Naoroji Pestanji Vakil, C.I.E.
The Hon'ble Rai Bahadur P. Ananda Charlu, C.I.E.
Brigadier-Genl. B. Duff, C.B., C.I.E.
Major Nawab Muhammad Ali Beg, C.I.E.
P. N. Krishna Murti, C.I.E.
R. D. Mehta, Esq., C.I.E.
C. G. W. Hastings, Esq., C.I.E.
Rai Bahadur Daulat Ram, C.I.E.
Col. J. C. F. Gordon, C.I.E.
Lt.-Col. F. H. R. Drummond, C.I.E.
Sahibzada M. Bakhtiyar Shah, C.I.E.
Raja Balwant Singh, of Awa, C.I.E.
B. Robertson, Esq., C.I.E.
R. W. Carlyle, Esq., C.I.E.
Major J. Ramsay, C.I.E.
The Hon'ble Lt.-Col. D. P. Masson, C.I.E., V.D.
Virchand Dipchand, C.I.E.
A. Pennycuick, Esq., C.I.E.
E. F. Jacob, Esq., C.I.E.
Major Kunwar Bir Bikram Singh, C.I.E.
Capt. A. B. Minchin, C.I.E.
Lt.-Col. H. K. McKay, C.I.E.
Rai Bahadur Dhanpat Rai, C.I.E.
Khan Bahadur Dhanjibhai Fakirji Commodore, C.I.E.
V. P. Madhava Rao, C.I.E.
Khan Bahadur Kharsedji Rastamji Thanawala, C.I.E.
Khan Bahadur Kazi Jalal-ud-din, C.I.E.
Lt.-Col. M. J. Meade, C.I.E.
Maung On Gaing, A. T. M., C.I.E.
Khan Bahadur Muhammad Yakub, C.I.E.
Diwan Bahadur P. Rajaratna Mudaliyar, C.I.E.
The Hon'ble Mr. W. C. Hughes, C.I.E.
Lt.-Col. A. M. Crofts, C.I.E.
H. Marsh, Esq., C.I.E.
Rai Bahadur Kailash Chandar Bose, C.I.E.
Capt. W. S. Goodridge, C.I.E.
Col. S. C. F. Peile, C.I.E.
The Hon'ble Mr. H. A. Sim, C.I.E.
Major J. R. Dunlop-Smith, C.I.E.
Fardunji Kuvarji Tarapurvala, C.I.E.
F. W. Latimer, Esq., C.I.E.
Lt.-Col. W. J. R. Rainsford, C.I.E.
Lt.-Col. G. K. Scott-Moncrieff, C.I.E.
Major T. E. Scott, C.I.E., D.S.O.
Sardar Mir Ausaf Ali Khan, C.I.E.
Commander G. E. Holland, C.I.E., D.S.O.
The Hon'ble Mr. T. Conlan, C.I.E.
S. Preston, Esq., C.I.E.
A. Pedler, Esq., C.I.E.
A. L. P. Tucker, Esq., C.I.E.
K. Krishnaswami Rao, C.I.E.
Lt.-Col. G. H. D. Gimlette, C.I.E.
A. J. Dunlop, Esq., C.I.E.
Major A. F. Pinhey, C.I.E.
Rai Bahadur Nanak Chand, C.I.E.

L. W. DANE,

for *Secretary to the Orders of the Star of India and the Indian Empire.*

MILITARY DEPARTMENT.

R3

Fort William, the 9th January, 1903.

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

1st Punjab Volunteer Rifles.

No. 23.—Hamlet Edward Clark, gentleman, to be Second Lieutenant, *vice* Hodges, transferred to the supernumerary list.

MEDALS AND DECORATIONS.

No. 28.—His Excellency the Governor-General of India is pleased to confer the Volunteer Officers' Decoration upon the undermentioned officer of the Indian Volunteer Force:—

1st Punjab Volunteer Rifles.

Captain (Honorary Major) William Rennett Peake.

E. G. BARROW, MAJOR-GENERAL,

Secretary to the Government of India.

Punjab Government Press, Lahore—15-1-03—635.

Government Gazette

PUNJAB AND IT'S DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JANUARY 22, 1903.

PART II.

Republications from the "Gazette of India.

FROM THE "GAZETTE OF INDIA," DATED JANUARY 10, 1903.

PUBLIC WORKS DEPARTMENT.

RAILWAYS.

NOTIFICATIONS.

Calcutta, the 8th January, 1903.

No. 3.—It is hereby notified for general information that the Government of India have sanctioned a survey being made, by the Agency of Mr. James Brown, General Manager, Murree Brewery Company, Limited, for a railway on the 2 feet 6 inches gauge from Rawalpindi to Murree with extension to Kuldana and Gharial, a distance of about 50 miles.

The 7th January, 1903.

No. 1.—The following is published for general information :—

Citcular No. VII Railway.

GOVERNMENT OF INDIA—PUBLIC WORKS DEPARTMENT—RAILWAY TRAFFIC.

Calcutta, the 23rd December, 1902.

Risk Note, Form G.

READ—

Section 72 of the Indian Railways Act, 1890 (IX of 1890).
Government of India Circular No. I Railway, dated the 9th March, 1898.

RESOLUTION.

WITH Government of India Circular No. I Railway, dated the 9th March, 1898, was promulgated a Risk Note, Form D, to be used when the sender elects to despatch at a "special reduced" or "owner's risk" rate dangerous, explosive or cumbustible articles for which an alternative "ordinary" or "railway risk" rate is quoted by railway administrations. Consignors using that risk note are obliged to execute a separate note in the prescribed form for each consignment despatched by them.

2. To obviate the inconvenience thus experienced by regular consignors, and to assist the trade generally, it has been suggested that an additional Risk Note, Form G, should be introduced for use as an alternative to Form D to cover frequent despatches of dangerous, explosive, or combustible articles booked at owner's risk.

3. The Governor-General in Council is accordingly pleased to approve, under section 72 (2) (*b*) of the Indian Railways Act, 1890 (IX of 1890), of the use of the enclosed form, with effect from the 1st February, 1903, by railway administrations working railways to which the said Act applies.

4. In the case of railways to which Local Acts similar in scope to the Indian Railways Act, 1890 (IX of 1890), are applicable, the Governor-General in Council is also pleased to approve of the use of the form from the same date, so far as his approval may be necessary under such Local Acts.

ORDER.—Ordered that a copy of this resolution, and of its enclosure, be communicated to the Local Governments and Administrations and to the Officers marginally noted, for information and guidance; also to the Governments of the United Provinces of Agra and Oudh, and the Punjab, the Hon'ble the Chief Commissioner of the Central Provinces, the Hon'ble the Agent to the Governor-General in Baluchistan, the Hon'ble the Agent to the Governor-General and Chief Commissioner of the North-West Frontier Province, the Accountant-General, Public Works Department, and to the Foreign Department, for information. Further, that this resolution and the accompanying form be published under a notification in Part I of the *Gazette of India*, and that it be reproduced in the Local Government Gazettes.

The Governments of Madras, Bombay, Bengal and Burma.
The Hon'ble the Chief Commissioner of Assam.
The Hon'ble the Residents at Hyderabad, Mysore and Baroda.
The Hon'ble the Agents to the Governor-General for Rajputana and Central India.
The Consulting Engineers to the Government of India for Railways, Calcutta, Lucknow and Assam.
The Managers, North-Western, Oudh and Rohilkhand and Eastern Bengal (State) Railways ...

Documents accompanying.

Risk Note, Form G.

[Enclosure to the Government of India Circular No. VII Railway, dated the 23rd December 1902.]

______________ RAILWAY.

RISK NOTE, FORM G.

[Approved by the Governor-General in Council under Section 72 (2) (*b*) of the Indian Railways Act, 1890 (IX of 1890).]

(To be used as an alternative to Risk Note, Form D, in the case of dangerous, explosive or combustible articles, for which an alternative "ordinary" or "risk acceptance" rate is quoted in the tariff, when the sender desires to enter into a general agreement instead of executing a separate Risk Note for each consignment.)

______________ *Station.*

______________ 190 .

WHEREAS all consignments of (*a*)______________ for which the __________ railway administration quotes both owner's risk or special reduced rules and railway risk or ordinary rates are (unless I/we shall have entered into a special contract in relation to any particular consignment), despatched by me/us at my/our own risk and are charged for by the______________ railway administration at special reduced or owner's risk rates, instead of at ordinary tariff or railway risk rates, I/we, the undersigned, in consideration of such consignments being charged for at the special reduced or owner's risk rates, do hereby agree and undertake to hold the______________ railway administrations and all other railway administrations working in connection therewith, and also all other transport agents or carriers employed by them, respectively, over

whose railways or by or through whose transport agency or agencies the said consignments of (a) ________ may be carried in transit from ________ station to ________ station, harmless and free from all responsibility for any loss, destruction or deterioration of, or damage to, all or any such consignments from any cause whatever before, during and after transit over the said railway or other railway lines working in connection therewith, or by any other transport agency or agencies employed by them, respectively, for the carriage of the whole or any part of the said consignments.

$\frac{I}{We}$ further agree to accept responsibility for any consequences to the property of the aforesaid railway administration(s) and of the transport agents and carriers, or to the property of other persons that may be in the course of conveyance, which may be caused by the explosion of, or otherwise by, all or any of the said consignments, and that all risk and responsibility whether to the railway administration(s) or their transport agents and carriers, to their servants or to others, remain solely and entirely with $\frac{me}{us}$.

Witness.

(Signature) ________ *Signature of sender* ________

(Address) ________ (Address) ________

Witness.

(Signature) ________

(Address) ________

(a) Here insert the commodity it is desired to carry at owner's risk.

N. B.—When this risk note is used locally, the portions referring to foreign railways must be scored out.

The above form is, for the convenience of the public, translated into the vernacular on the reverse, *but the form in English is the authoritative form*, and the railway administration accepts no responsibility for the correctness of the vernacular translation.

A. BRERETON,

Secretary to the Government of India.

FROM THE "GAZETTE OF INDIA," DATED JANUARY 17, 1903.

HOME DEPARTMENT.

NOTIFICATION.

MEDICAL.

Calcutta, the 16th January, 1903.

No. 25.—The services of Lieutenant I. L. MacInnes, M.B., I.M.S., are replaced at the disposal of His Excellency the Commander-in-Chief in India.

H. H. RISLEY,

Offg. Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

EMIGRATION.

Calcutta, the 16th January, 1903.

No. 30—2-2.—The Government of India have received intimation from His Majesty's Secretary of State for India that the Government of Cape Colony has passed an Act similar to the "Immigation Restriction Act, 1901," issued by the Commonwealth of Australia, extracts from which were published in Resolution No. 13—38-2, dated 9th May 1902. The Act will come into force from the 30th January 1903.

2. Copies of the Act have not yet been received, but it is understood that under it immigrants will be required to write satisfactorily an application in some European language, and its effect will no doubt be practically to exclude from the Colony Indians of the labouring and petty trading classes The Governor-General in Council requests all Local Goveruments and Administrations to take steps to make the information generally known, and to warn intending emigrants at the port of embarkation of the risks they incur in proceeding to the Colony.

J. O. MILLER,

Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

SEPARATE REVENUE.

STAMPS.

Calcutta, the 16th January, 1903.

No. 206-*S. R.*—In exercise of the power conferred by section 9, clause (*a*) of the Indian Stamp Act, 1899 (II of 1899), the Governor-General in Council is pleased to direct that the duty chargeable on instruments referred to in clause (*b*), Article 41, Schedule I of the said Act, shall be reduced to two annas for every sum secured not exceeding Rs. 100, and two annas for every Rs. 100 or part thereof secured in excess of Rs. 100.

E. N. BAKER,

Offg. Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATIONS.

Calcutta, the 14th January, 1903.

No. 10.—Messrs. Ernest Leslie Glass and Ambika Prasad, qualified students of the Thomason Civil Engineering College, Rurki, are appointed to the Provincial Service of the Engineer Branch of the Public Works Department as Assistant Engineers, 3rd grade, with effect from the 2nd and 20th November 1902, respectively, and posted to the Punjab.

The 15th January, 1903.

No. 11.—Mr. R. G. Kennedy, Superintending Engineer, 1st Class, Punjab, is appointed to officiate as Chief Engineer and Secretary to the Government of Bengal in the Roads and Buildings Branch, *vice* Mr. W. A. Inglis, who has been appointed to officiate as Chief Engineer and Secretary, Irrigation Branch, during the absence on leave of Mr. D. B. Horn.

SIDNEY PRESTON,

Secretary to Government of India.

Punjab Government Press, Lahore—22-1-03—635.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JANUARY 29, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED JANUARY 24, 1903

HOME DEPARTMENT.

NOTIFICATION.

ESTABLISHMENTS.

Calcutta, the 20th January 1903.

No. 30.—The services of Mr. C. H. Harrison, of the Indian Civil Service, are replaced at the disposal of the Government of the Punjab, with effect from the 13th November 1902.

H. H. RISLEY,

Offg. Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

STATISTICS AND COMMERCE.

CUSTOMS.

Calcutta, the 23d January 1903.

No. 377-*S. R.*—In exercise of the powers conferred by sections 22 and 23 of the Sea Customs Act, 1878 (VIII of 1878), in modification of the tariff values fixed by the Indian Tariff Act, 1894 (VIII of 1894), as amended by the Indian Tariff Act (1894) Amendment Act, 1896 (III of 1896), and as further altered from time to time by notifications of the Governor-General in Council, the Governor-General in Council is pleased to fix, with effect from the 31st of January 1903, for the articles specified in column 2 of the schedule hereto annexed, the tariff values stated in column 4 of the said schedule.

Provided that nothing in this notification shall affect any additional duty imposed under the powers conferred by sections 8A and 8B of the Indian Tariff Act, 1894 (VIII of 1894), as amended by the Indian Tariff Act Amendment Act, 1899 (XIV of 1899), and the Indian Tariff (Amendment) Act, 1902 (VIII of 1902).

SCHEDULE IV.—(IMPORT TARIFF.)

GENERAL DUTIES.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Animals, living.			
1	HORSES, CATTLE, SHEEP, and all other living animals of all kinds ...	...	...	Free.
	Articles of Food and Drink.			
2	COFFEE	cwt	27 0	Five per cent.
3	FRUITS AND VEGETABLES, except fresh fruits and vegetables not separately enumerated which are free—			
	Almonds without shell	”	52 8	”
	” in the shell	”	14 0	”
	” (kágzai)	”	35 0	”
	Cashew or cajoo kernels	”	14 0	”
	Coccanuts, Straits	thousand	67 0	”
	” others...	”	30 0	”
	” kernel (khopra)	cwt	12 0	”
	Currants, in cases	”	12 8	”
	” in cans	”	30 0	”
	” other	”	14 0	”
	Dates, dry, in bags	”	5 8	”
	” wet ”	”	4 0	”
	” ” in pots, boxes, and tins	”	8 0	”
	Figs, Persian, dried	”	10 0	”
	Garlic	”	6 0	”
	Hops	...	...	Free.
	Pistachio nuts	cwt	30 0	Five per cent.
	Prunes, Bussora (álu-Bokhara)	”	20 0	”
	Raisins, black	”	8 0	”
	” kishmish	”	10 0	”
	” Munakka...	”	10 0	”
	” other sorts	”	8 0	”
	Walnuts	...	*ad valorem*	”
	All other sorts of fruits and vegetables	cwt	8 0	”
		...	*ad valorem*	”
4	GRAIN AND PULSE, including broken grain and pulse, but not including flour.	...	...	Free.
5	MINERAL AND AERATED WATERS and all unfermented and non-alcoholic beverages.	...	*ad valorem*	Five per cent.
6	PROVISIONS, OILMAN'S STORES AND GROCERIES—			
	Bacon	lb	0 10½	”
	Beef and Pork	...	*ad valorem*	”
	Biche de mer	cwt	50 0	”
	Butter	lb	1 4	”
	Cheese	”	0 10	”
	China preserves in syrup	box of six járs	4 8	”
	” ” dry, candied	lb	0 4½	”
	Cocum	cwt	5 0	”
	Fish-maws	...	...	Free.
	Flour	...	*ad valorem*	Five per cent.
	Ghi	cwt	45 0	”
	Groceries not otherwise described	...	*ad valorem*	”
	Margarine	lb	1 4	”
	Pork hams	”	0 11	”
	Sago	cwt	6 12	”
	Shark-fins	...	...	Free.
	Singally and sozille	...	...	”
	Tapioca	cwt	9 0	Five per cent.
	Vinegar, European, in wood	Imperial gallon	0 14	”
	” Persian	”	1 8	”
	” Indian	”	0 6	”
	All other sorts of provisions, oilman's stores and groceries ...	...	*ad valorem*	”
7	SPICES—			
	Betelnuts—Goa	cwt	12 0	”
	” —in the husk	thousand	2 0	”
	” —all other sorts	...	*ad valorem*	”
	Chillies, dry	cwt	13 0	”
	Cloves	”	25 0	”
	” stems and heads	”	8 0	”

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Articles of Food and Drink—*concld.*		Rs. A.	
7	SPICES—*concld.*—			
	Cloves in seeds, narlavang	cwt	11 0	Five per cent.
	Ginger, dry	"	22 0	"
	Mace	lb	1 0	"
	Nutmegs	"	0 7	"
	" in shell	"	0 5	"
	Pepper, black	cwt	35 0	"
	" white	"	65 0	"
	All other sorts of spices	...	*ad valorem*	"
8	SUGAR, China, candy	cwt	15 0	"
	" loaf	"	15 0	"
	" crystalised, beet	"	10 4	"
	" " and soft, from China	"	10 8	"
	" " " " " Mauritius and Egypt	"	10 0	"
	" soft or raw, other than from Mauritius, Egypt, or China ...	"	8 0	"
	" all other sorts, including saccharine produce of all kinds and confectionery.	...	*ad valorem*	"
9	TEA, black	lb	0 8	"
	" green	"	0 10	"
	Chemicals, Drugs, Medicines, and Narcotics, and Dyeing and Tanning Materials.			
10	CHEMICAL PRODUCTS AND PREPARATIONS—			
	Acid, sulphuric	"	0 1½	"
	Alkali, Indian (sajji khár)	cwt	2 0	"
	Alum	"	4 10	"
	Arsenic	"	25 0	"
	" (China mansil)	"	19 0	"
	Bicarbonate of soda	"	6 8	"
	Copperas, green	"	2 12	"
	Explosives, namely blasting gelatine, dynamite, roburite, tonite, and all other descriptions, including detonators and blasting fuse.	...	*ad valorem*	"
	Sal ammoniac	cwt	30 0	"
	Sulphate of copper	"	17 8	"
	Sulphur (brimstone), flour	"	6 8	"
	" ("), roll	"	5 8	"
	" ("), rough	"	5 0	"
	All other sorts of chemical products and preparations, including saltpetre and borax.	...	*ad valorem*	"
11	DRUGS, MEDICINES, AND NARCOTICS—			
	Aloes, black	cwt	22 0	"
	" Socotra	"	16 0	"
	Aloe-wood	lb	6 0	"
	Asafœtida (hing)	cwt	65 0	"
	" coarse (hingra)	"	23 0	"
	Atary, Persian	"	15 0	"
	Bánslochan (bamboo camphor)	lb	0 5	"
	Brimstone (amalsára)	cwt	30 0	"
	Calumba root	"	5 0	"
	Camphor, refined, cake	lb	1 9	"
	" partially refined, cake, in blocks of about 13lbs.	"	1 3	"
	" crude, in powder	"	1 1	"
	Cassia lignea	cwt	26 0	"
	China root (chobchíni), rough	"	8 0	"
	" " ("), scraped	"	16 0	"
	Cubebs	"	20 0	"
	Galangal, China	"	9 0	"
	Pellitory (akalkára)	"	40 0	"
	Peppermint crystals	lb	11 0	"
	Quinine and other alkaloids of chinchona	...	...	Free.
	Salep	cwt	125 0	Five per cent.
	Senna leaves	"	5 0	"
	Storax, liquid (rose melloes)	"	40 0	"
	Tobacco, unmanufactured	...	...	Free.
	" manufactured	...	*ad valorem*	Five per cent.
	All other sorts of drugs, medicines, and narcotics, except opium (for which see Schedule III).	...	"	"
12	DYEING AND TANNING MATERIALS—			
	Alizarine dye, dry, 40 per cent	lb	1 4½	"
	" " " 50 "	"	1 8½	"

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Chemicals, Drugs, Medicines, and Narcotics, and Dyeing and Tanning Materials—*concld.*		Rs. A.	
12	DYEING AND TANNING MATERIALS—*concld.*—			
	Alizarine dye, dry, 60 per cent.	lb	1 12	Five per cent.
	" " " 70 "	"	2 0¼	"
	" " " 80 "	"	2 4¼	"
	" " " 100 "	"	2 12	"
	" " moist, 10 "	"	0 4¾	"
	" " " 16 "	"	0 7	"
	" " " 20 "	"	0 8	"
	Aniline " " indigo blue	"	0 6	"
	" " dry	"	1 0	"
	" salts	"	*ad valorem*	"
	Avar bark	cwt	4 0	"
	Buzgand (gulpista)	"	35 0	"
	Cochineal	lb	0 12	"
	Gallnuts (myrabolams)	...	*ad valorem*	"
	" Persian	cwt	40 0	"
	Madder or manjit	"	10 0	"
	Orchilla weed	"	6 0	"
	Sappan wood and root	...	*ad valorem*	"
	Turmeric	...	"	"
	All other sorts of dyeing and tanning materials	...	"	"
	Metals and Manufactures of Metals.			
13	HARDWARE AND CUTLERY including ironmongery and platedware, and also including machines, tools, and implements to be worked by manual or animal labour. [*Exceptions which are free*: Water-lifts, sugar mills, oil-presses, and parts thereof, and any other machines and parts of machines ordinarily used in processes of husbandry, or for the preparation for use or for sale of the products of husbandry, which the Governor-General in Council may, by notification in the *Gazette of India*, exempt; also the following articles used in the manufacture of cotton, namely, bobbins (warping), forks for looms, healds, heald cords, heald knitting needles, laces, lags and needles for dobbies, pickers (buffalo and others), picking bands, picking levers, picking sticks (over and under) reed pliers, reeds, shuttles (for power looms), springs for looms, strappings, and weft forks.]	...	"	"
14	MACHINERY, namely, prime-movers and component parts thereof, including boilers and component parts thereof; also including locomotive and portable engines, steam-rollers, fire-engines and other machines in which the prime mover is not separable from the operative parts. " (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire or other power not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts; and including belting of all materials for driving machinery. Provided that the term does not include tools and implements to be worked by manual or animal labour, and provided also that only such articles shall be admitted as component parts of machinery as are indispensable for the working of the machinery and are, owing to their shape or to other special quality, not adapted for any other purpose. *Note.*—Machinery and component parts thereof made of substances other than metal are included in this entry.	...	...	Free.
15	METALS, unwrought and wrought, and articles made of metals—			
	Brass, orsidue and leaves, European	lb	1 3	Five per cent.
	" " " China	"	1 2	"
	" patent or yellow metal, sheathing, sheets, plates and bolts.	cwt	43 0	"
	" " " (old). " " " " "	"	28 0	"
	" sheets, flat or in rolls, very thin	"	130 0	"
	" wire	lb	0 7	"
	" all other sorts	...	*ad valorem*	"
	Copper, bolt and bar, rolled	cwt	55 0	"
	" brasier's and sheets	"	53 0	"

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Metals and Manufactures of Metals—*contd.*		Rs. A.	
5	METALS, unwrought and wrought, and articles made of metals—*contd.*—			
	Copper, nails and composition nails	cwt	60 0	Five per cent.
	" old	"	38 0	"
	" pigs, tiles, ingots, cakes, bricks, and slabs	"	50 0	"
	" sheathing, plate, and raised bottoms	"	55 0	"
	" China, white copperware	lb	1 2	"
	" foil or dankpana, white, 10½ in. × 4½ in.	hundred leaves	2 0	"
	" " " coloured, 10½ in. × 4½ in. ...	"	2 4	"
	" wire, including phosphor-bronze	...	*ad valorem*	"
	" all other sorts, unmanufactured and manufactured except current coin of the Government of India, which is free.	...	"	"
	German silver	...	"	"
	Gold bullion and coin	...	...	Free.
	Gold leaf	hundred leaves	2 12	Five per cent.
	Iron, anchors and cables	...	*ad valorem*	One per cent.
	" angle, T, and channel, other than Lowmoor or Swedish ...	ton	115 0	"
	" " and T, other than Lowmoor or Swedish (if galvanised)	...	*ad valorem*	"
	" channel (if galvanised)	...	"	"
	" bar, Lowmoor and similar qualities	ton	370 0	"
	" " Swedish	"	155 0	"
	" " " nail-rod, also round rod under half an inch in diameter.	"	160 0	"
	" " other kinds	"	100 0	"
	" " " " nail-rod and round rod under half an inch in diameter.	"	105 0	"
	" " " (if galvanised)	...	*ad valorem*	"
	" beams, joists, pillars, girders, bridge-work, and other such descriptions of iron imported exclusively for building purposes.	...	"	"
	" plate and sheet, Lowmoor and similar qualities ...	ton	460 0	"
	" " " " Swedish and charcoal	...	*ad valorem*	"
	" " " " and hoop, other kinds	ton	115 0	"
	" hoop other kinds (if galvanised)	...	*ad valorem*	"
	" plate " " (")	ton	200 0	"
	" " " " (if tinned)	...	*ad valorem*	"
	" sheets " " (if galvanised)	cwt	9 0	"
	" " " " (lead-coated)	...	*ad valorem*	"
	" bar, hoop, plate and sheet, Lowmor and Swedish (if galvanised).	...	"	"
	" " (including angle, T, and channel) hoop, plate and sheet (tinned).	...	"	"
	" nails, rose, wire, and flat-headed	cwt	9 0	"
	" " other sorts (including galvanised or tinned) ...	...	*ad valorem*	"
	" nuts and bolts, also galvanised hooks and nuts for roofing.	...	"	"
	" old	cwt	2 0	"
	" pig	...	*ad valorem*	"
	" pipes and tubes, including fittings therefor, such as bends, boots, elbows, tees, sockets, flanges, and the like	...	"	"
	" rails, chairs, sleepers, and fish plates, other than those described in No. 59, also spikes (commonly known as dog spikes), switches, crossings, lever-boxes, clips, and tie-bars	...	"	"
	" rice-bowls	...	"	"
	" ridging, galvanised	...	"	"
	" rivets and washers, all sorts	...	"	"
	" wire, including fencing wire and wire rope but excluding wire-netting.	...	"	"
	" cans, tinned, when imported containing petroleum which is separately assessed to duty at one anna per Imperial gallon under No. 16.	can	0 3	Five per cent.
	" all other sorts, including wire-netting	...	*ad valorem*	"
	Lametta	...	"	"
	Lead, all sorts (except sheets for tea-chests which are free) ...	...	"	"
	Quicksilver	lb	1 12	"
	Shot, bird	cwt	15 0	"
	Silver bullion or coin except current coin of the Government of India, which is free.	...	*ad valorem*	"
	Steel, anchors and cables	...	"	One per cent.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Metals and Manufactures of Metals—*concld.*		Rs. A.	
15	METALS, unwrought and wrought, and articles made of metals—*concld.*			
	Steel, angle, channel and spring	...	*ad valorem*	One per cent.
	" bar and blooms	...	"	"
	" basic, all sorts, including galvanised or tinned sheets ...	...	"	"
	" beams, joists, pillars, girders, bridge-work and other descriptions of steel imported exclusively for building purposes.	...	"	"
	" cast and blistered of any kind not specified in this number	...	"	"
	" hoop	ton	145 0	"
	" " (if galvanised)	...	*ad valorem*	"
	" nails	...	"	"
	" nuts and bolts and nail-rods	...	"	"
	" old	ton	140 0	"
	" pipes and tubes, including fittings therefor, such as bends, boots, elbows, tees, sockets, flanges, and the like.	...	*ad valorem*	"
	" plates and sheets	ton	115 0	"
	" " " " planished	...	*ad valorem*	"
	" " " " (if galvanised)	ton	200 0	"
	" " " " planished (if tinned or lead-coated) ...	...	*ad valorem*	"
	" rails, chairs, sleepers, and fish-plates other than those described in No. 59, also spikes (commonly known as dog spikes), switches, crossings, lever-boxes, clips, and tie-bars.	...	"	"
	" rivets and washers, all sorts	...	"	"
	" T-bars	ton	115 0	"
	" " (if galvanised)	...	*ad valorem*	"
	" " (if tinned)	...	"	"
	" wire, excluding wire-netting	...	"	"
	" wire rope	...	"	"
	" all other sorts, including wire-netting	...	"	Five per cent.
	Tin, block	cwt	95 0	"
	" foil, and other sorts	...	*ad valorem*	"
	Zinc or spelter, nails	cwt	20 0	"
	" " plates and other shapes, soft	"	17 8	"
	" " " " " hard	"	13 0	"
	" " all other sorts	...	*ad valorem*	"
	All other sorts of metals	...	"	"
	Oils.			
16	PETROLEUM, including also naphtha and the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosene, paraffin oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any products of petroleum.	Imperial gallon	...	One anna.
	" which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs-Collector to be intended for use exclusively for the batching of jute or other fibre or for lubricating purposes.	...	*ad valorem*	Five per cent.
	" which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs-Collector to be intended for use exclusively as fuel.	...	"	"
	All other sorts of oil, animal or vegetable (including otto of all kinds), and mineral, including paraffin wax.	...	"	"
	Other Articles, unmanufactured and manufactured.			
17	APPAREL, including drapery, haberdashery, and millinery, and military and other uniforms and accoutrements; but excluding cotton-hosiery (for which see No. 30) and boots and shoes (for which see No. 45) and excluding also uniforms, and accoutrements appertaining thereto, imported by a public servant for his personal use, which are free.	...	"	"
18	ART WORKS OF, except statuary and pictures intended to be put up in a public place, which are free.	...	"	"
19	BAMBOOS, common, grass, hay, rushes, straw, and leaves ...	...	"	Free.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—*contd.*		Rs. A.	
20	BOOKS, printed, including covers for printed books, maps, charts and plans, proofs, music, and manuscripts.	...	...	Free.
21	BRISTLES AND FIBRE, for brushes and brooms	...	...	"
22	BRUSHES AND BROOMS, all sorts	...	*ad valorem*	Five per cent.
23	BUILDING AND ENGINEERING MATERIALS, namely, asphalt, bricks, and tiles, cement of all kinds, fire-clay, earthenware piping, lime, and other kinds, not otherwise described.	...	"	"
24	CABINET-WARE AND FURNITURE	...	"	"
25	CARRIAGES AND CARTS, including motor cars, bicycles, tricycles, jinrikshas, bath chairs, perambulators, trucks, wheelbarrows, and all other sorts of conveyances and component parts thereof.	...	"	"
26	CHINESE AND JAPANESE WARE, including lacquered ware, but excluding earthenware, china, and porcelain (for which see No. 32).	...	"	"
27	CLOCKS, WATCHES, and other time-keepers, and parts thereof ...	...	"	"
28	COLE, COKE, AND PATENT FUEL	...	...	Free.
29	CORDAGE, Rope and Twine made of any vegetable fibre ...	...	*ad valorem*	Five per cent.
30	COTTON, AND ARTICLES MADE OF COTTON—			
	Cotton, raw	...	...	Free.
	" twist and yarn	...	...	"
	" sewing thread	...	...	"
	" piece-goods, hosiery, and all other manufactured cotton-goods not otherwise described.	...	*ad valorem*	Three and one-half per cent.
31	EARTH, COMMON CLAY, AND SAND	...	...	Free.
32	EARTHENWARE (except earthenware piping, for which see No. 23), china, china clay, porcelain, and imitation or false coral.	...	*ad valorem*	Five per cent.
33	FANS OF ALL KINDS, except common palm-leaf fans, which are free...	...	"	"
34	FIREWORKS, all sorts, including fulminating-powder	...	"	"
35	FLAX, AND ARTICLES MADE OF FLAX, including linen-thread ...	...	"	"
36	FURNITURE, TACKLE, AND APPAREL, not otherwise described, for steam, sailing, rowing and other vessels.	...	"	"
37	GUMS, GUM-RESINS, and articles made of gum or gum-resin—			
	Copal	cwt	70 0	"
	Cutch and gambier	"	23 0	"
	Gamboge	lb	1 5	"
	Gum Ammoniac	cwt	10 0	"
	" Arabic	"	15 0	"
	" Edellium	...	*ad valorem*	"
	" Benjamin, ras	cwt	25 0	"
	" " cowrie	"	70 0	"
	" Bysabol (coarse myrrh)	"	18 0	"
	" Olibanum or frankincense	...	...	Free.
	" Persian (false)	cwt	10 0	Five per cent.
	Myrrh	"	36 0	"
	Rosin	"	4 12	"
	All other sorts of gums, gum-resins, and articles made of gum or gum-resin, including caoutchouc and gutta-percha.	...	*ad valorem*	"
38	HEMP, including Manila hemp, and articles made therefrom ...	...	"	"
39	HIDES AND SKINS (except raw or salted hides and skins, which are free) including parchment and vellum, gold-beaters' skins, and all other descriptions of hides or skins.	...	"	"
40	HORN	...	...	Free.
	" articles made of, not otherwise described	...	*ad valorem*	Five per cent.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. A.	
	Other Articles, unmanufactured and manufactured—*contd.*			
41	INSTRUMENTS, APPARATUS AND APPLIANCES, and parts thereof—			
	Computing, Dental, Distilling, Diving, Drawing, Educational, Electric, Electric lighting, Galvanic, Measuring, Musical, Optical, Philosophical, Phonographic, Photographic (including materials for Photography, Scientific, Surgical, Surveying, Telegraphic, Telephonic, Typewriters, and all other sorts, except Telegraphic instruments and apparatus, and parts thereof, when imported by or under the orders of a railway company, and any instruments, apparatus, and appliances when imported by a passenger as part of his personal baggage and in actual use by him in the exercise of his profession or calling, which are free.	...	*ad valorem*	Five per cent.
42	IVORY AND IVORY-WARE—			
	Unmanufactured—			
	Elephants' grinders	cwt	350 0	"
	" tusks (other than hollows, centres and points) each exceeding 20lb in weight, and hollows, centres, and points each weighing 10lbs and over.	"	750 0	"
	" " (other than hollows, centres, and points) not less than 10lb and not exceeding 20lb each, and hollows, centres, and points each weighting less than 10lbs.	"	650 0	"
	" " each less than 10lb (other than hollows, centres, and points).	"	500 0	"
	Sea-cow or moye teeth, each not less than 4lb	"	200 0	"
	" " " 3lb and under 4lb ...	"	185 0	"
	" " less than 3lb	"	135 0	"
	All other sorts, manufactured and unmanufactured ...	...	*ad valorem*	"
43	JEWELLERY AND JEWELS, including plate and other manufactures of gold and silver—			
	Silver-ware, plain ... ... } other than European	tola	1 0	"
	" embossed or chased ... } other than European	"	1 4	"
	All other sorts, except precious stones and pearls, unset, which are free.	...	*ad valorem*	"
44	JUTE, raw	...	...	Free.
	" articles made of, except second-hand or used gunny bags, which are free.	...	*ad valorem*	Five per cent.
45	LEATHER, and articles made of leather including boots and shoes, harness and saddlery, except saddlery of a military pattern imported by an officer of His Majesty's regular forces and forming part of the equipment with which he is required to supply himself under Army Regulations, which is free.	...	"	"
46	MANURES of all kinds, including animal bones	...	...	Free.
47	OILCAKE, also bran, fodder, and cattle-food of all kinds	...	...	"
48	OIL-CLOTH AND FLOOR-CLOTH, including lincrusta, linoleum, and tarpaulins.	...	*ad valorem*	Five per cent.
49	PAINTS, COLOURS, PAINTERS' MATERIALS, and compositions for application to leather, wood, and metals—			
	Lead, red, dry	cwt	14 0	"
	" white, dry	"	17 0	"
	Ochre other than European, all colours	"	1 8	"
	Paints, composition	...	*ad valorem*	"
	" patent driers	cwt	15 0	"
	Turpentine	Imperial gallon	2 12	"
	Verdigris	cwt	70 0	"
	Vermilion, Canton	box of 90 bundles	110 0	"
	Zinc white, dry	cwt	23 0	"
	All other sorts, including glue and putty	...	*ad valorem*	"
50	PAPER, PASTEBOARD, MILLBOARD, AND CARDBOARD of all kinds, including ruled or printed forms and account and manuscript books, labels, advertising circulars, sheet or card almanacs, and calendars, Christmas, Easter, and other cards, including cards in booklet form, including also waste paper and old newspapers for packing.	...	"	"
	" articles made of paper and papier-maché	...	"	"

SCHEDULE IV—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—*contd.*		Rs A.	
51	PERFUMERY—			
	Gowla, husked and unhusked	cwt	40 0	Five per cent.
	Kapurkachri (zedoary)	"	10 0	"
	Patch leaves (patchouli)	"	20 0	"
	Rose flowers, dried	"	3 0	"
	Rose-water	Imperial gallon	2 0	"
	All other sorts, except perfumed spirit (for which see Schedule III).	...	*ad valorem*	"
52	PITCH, TAR, AND DAMMER—			
	Bitumen	...	"	"
	Dammer	cwt	6 0	"
	Pitch, American and European	"	7 0	"
	" coal	"	4 0	"
	Tar, American and European	"	6 8	"
	" coal	"	4 0	"
	" mineral	...	*ad valorem*	"
53	PLANTS AND BULBS, living, also dried for herbaria	...	...	Free.
54	PRECIOUS STONES AND PEARLS, unset (including the stones generically known as Cambay stones, such as agates, cornelians, and onyx).	...	...	"
55	PULP of wood, straw, rags paper and other materials	...	...	"
56	PRINTING AND LITHOGRAPHING MATERIAL, namely, presses, type, ink, brass rules, composing sticks, chases, imposing tables, and lithographic stones, but not including paper.	...	...	"
57	RAGS	...	...	"
58	RACKS for the withering of tea leaf	...	...	"
59	RAILWAY MATERIAL for permanent way and rolling stock, namely, cylinders, girders, and other material for bridges, rails, sleeper, bearing and fish plates, fish-bolts, chairs, spikes, crossings, sleeper fastenings, switches, interlocking apparatus, brake gear, couplings and springs, signals, turn-tables, weigh-bridges engines, tenders, carriages, waggons, traversers, trollies, trucks and component parts thereof; also the following articles when imported by or under the orders of a railway company, namely, cranes, water cranes, water tanks, and standards, wire and other materials for fencing: Provided that for the purpose of this exemption "railway" means a line of railway subject to the provisions of the Indian Railways Act, 1890, and includes a railway constructed in a Native State, under the suzerainty of His Majesty, and also such tramways as the Governor General in Council may, by notification in the *Gazette of India*, specifically include therein.	...	...	"
60	SEEDS—			
	Castor	cwt	5 0	Five per cent.
	Cummin	"	15 0	"
	" black	"	16 0	"
	Linseed	"	7 0	"
	Methi	"	6 0	"
	Mustard, rape, or sarson	"	7 8	"
	Poppy	"	7 0	"
	Quince, bihidána	"	70 0	"
	Til or jinjili	"	7 0	"
	All other sorts	...	*ad valorem*	"
61	SHELLS AND COWRIES—			
	Chanks—large shells, for cameos	hundred	15 0	"
	" white, live	"	10 0	"
	" " dead	"	4 0	"
	Cowras	"	0 10	"
	Cowries, bazar, common	cwt	3 8	"
	" yellow, superior quality	"	5 0	"
	" Maldive	"	5 8	"
	" sankhla	"	60 0	"
	Mother-of pearl, nacre	...	...	Free.
	Nakhla	cwt	65 0	Five per cent.

SCHEDULE IV.—(IMPORT TARIFF)—*concld.*

GENERAL DUTIES—*concld.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—*concld.*		Rs. A.	
61	SHELLS AND COWRIES—*contd.*			
	Tortoise-shell	℔	8 8	Five per cent.
	" nakh	"	4 8	"
	All other sorts, including articles made of shell, not otherwise described.	...	*ad valorem*	"
62	SHIPS AND OTHER VESSELS for inland and harbour navigation, including steamers steam-launches, boats, and barges, imported entire or in sections.	...	...	Free.
63	SILK AND ARTICLES MADE OF SILK—			
	Bokhara	℔	7 8	Five per cent.
	Floss	"	6 8	"
	Piece-goods	...	*ad valorem*	"
	Sewing thread, China	℔	9 0	"
	Raw silk—Chahâram, Cochin-China, and yellow Shanghai ...	"	4 12	"
	Mathow	"	2 8	"
	Other kinds of China	"	6 4	"
	Waste and Kachra	"	1 4	"
	Panjam	"	1 12	"
	Persian	"	5 0	"
	Siam	"	1 10	"
	All other sorts, including cocoons	...	*ad valorem*	"
64	SOAP	...	"	"
65	SPECIMENS ILLUSTRATIVE OF NATURAL SCIENCE, including also antique coins and medals.	...	...	Free.
66	STATIONERY, excluding paper (for which see No. 50)	...	*ad valorem*	Five per cent.
67	STONE AND MARBLE, and articles made of stone and marble ...	...	"	"
68	TALLOW AND GREASE, including stearine	...	"	"
69	TEA CHESTS of metal or wood, whether imported entire or in sections, provided that the Customs-Collector is satisfied that they are imported for the purpose of the packing of tea for transport in bulk.	...	...	Free.
70	TEXTILE FABRICS not otherwise described	...	*ad valorem*	Five per cent.
71	TOILET REQUISITES not otherwise described	...	"	"
72	TOYS, including toy-books, and requisites for all games	...	"	"
73	UMBRELLAS, parasols, and sunshades of all kinds	...	"	"
74	WALKING STICKS and sticks for umbrellas, parasols, and sunshades, of all kinds, mounted and unmounted, driving, riding, and other whips, fishing rods and lines.	...	"	"
75	WOOD AND TIMBER (except fire-wood, which is free), and articles made of wood not otherwise described.	...	"	"
76	WOOL, raw	...	...	Free.
	" articles made of, including felt	...	*ad valorem*	Five per cent.
77	ALL OTHER ARTICLES, manufactured or unmanufactured, not described in this Schedule.	...	"	"

E. N. BAKER,

Officiating Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Calcutta, the 20th January, 1903.

No. 17.—The services of Mr. G. M. R. Field, Superintending Engineer, 1st Class, Punjab, are temporarily placed at the disposal of the Foreign Department for employment in the Kashmir State.

SIDNEY PRESTON,

Secretary to the Government of India.

Punjab Government Press, Lahore—29-1-03—635

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, FEBRUARY 5, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED JANUARY 31, 1903.

HOME DEPARTMENT.

NOTIFICATION.

JUDICIAL.

Calcutta, the 30th January 1903.

No. 152.—In the Home Department Notification No. 1478, dated the 2nd October 1902, granting Captain D'A. C. Brownlow, Cantonment Magistrate, Mooltan, privilege leave for one month and thirteen days with leave out of India for one year in continuation, *for the words* "13th instant or the subsequent date on which he may avail himself of it," *read* "12th instant."

H. H. RISLEY,

Offg. Secretary to the Government of India.

FOREIGN DEPARTMENT.

NOTIFICATION.

Fort William, the 30th January 1903.

No. 143 *G.*—The undermentioned officers have been selected as probationers for the Political Department of the Government of India and are temporarily attached to the Punjab Commission, as supernumerary Assistant Commissioners, with effect from the dates on which they assume charge of their dates:—

Lieutenant D. L. R. Lorimer, Indian Army.
Lieutenant C. G. Crosthwaite, Indian Army.
Lieutenant R. J. W. Heale, Indian Army.

L. W. DANE,

Officiating Secretary to the Government of India.

MILITARY DEPARTMENT.

Fort William, the 30th January 1903.

LONDON GAZETTE.

No. 78.—The following extracts are published for general information :—

* * * * * * * * * *

Supplement to the "London Gazette" of the 30th December 1902, and "London Gazettes" of the 2nd and 6th January 1903, pages 7 and 116.

* * * * * * * * * *

The King has been graciously pleased to make the following promotions in and appointments to the Most Exalted Order of the Star of India, on the occasion of the Darbar to be held this day at Delhi in His Majesty's Indian Empire, in commemoration of His Majesty's Coronation :—

* * * * * * * * * *

To be Companions.

* * * * * * * * * *

Lieutenant-Colonel James Alexander Lawrence Montgomery, Indian Staff Corps, Commissioner of the Rawalpindi Division of the Punjab.

* * * * * * * * * *

VOLUNTEER CORPS.

MEDALS AND DECORATIONS.

No. 88.—His Excellency the Governor-General of India is pleased to confer the Volunteer Officers' Decoration upon the undermentioned officer of the Indian Volunteer Force :—

1st Punjab Volunteer Rifles.

Captain Clarence Kirkpatrick.

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Calcutta, the 30th January 1903.

No. 36.—Mr. J. J Hatten, Executive Engineer, 1st Grade, Punjab, is appointed to officiate as a Superintending Engineer, with effect from the afternoon of the 8th January 1903 or until further orders, *vice* Mr. R. G. Kennedy, temporarily transferred to Bengal.

SIDNEY PRESTON,

Secretary to the Government of India.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, FEBRUARY 12, 1903.

PART II.

Republications from the "Gazette of India.

FROM THE "GAZETTE OF INDIA," DATED FEBRUARY 7, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Calcutta, the 5th February 1903.

No. 251.—In accordance with the provisions of section 18, sub-section (*l*), of the Indian Explosives Act, 1884 (IV of 1884), and with the directions contained in the Notification of the Government of India in the Home Department, No. 1964, dated the 2nd September 1887, the Governor-General in Council is pleased to publish, for the information of persons likely to be affected thereby, the following draft of an amendment which it is proposed to make in the rules to regulate the transport and importation of explosives, published with the like Notification No. 5528, dated the 11th October 1901, and amended by the like Notification No. 2759, dated the 11th September 1902.

The draft will be taken into consideration on or after the 2nd March 1903.

Draft amendment.

For the words "nothing in these rules shall apply to the packing or transport" in the third paragraph of the Notification of the Government of India in the Home Department, No. 5528, dated the 11th October 1901, as amended by the like Notification No. 2759, dated the 11th September 1902, the words "nothing in these rules shall apply to the packing, transport or importation" shall be substituted.

The 6th February 1903.

No. 281.—In exercise of the power conferred by section 27 of the Indian Arms Act, 1878 (XI of 1878), the Governor-General in Council is pleased to exclude from the operation of any prohibition or direction contained in that Act toy cannon weighing less than 56 lbs., having a calibre of less than one inch, a length of bore of less than twenty-four inches and the interior of the bore unrifled.

MEDICAL.

The 6th February 1903.

No. 120.—The services of Captain G. McI. C. Smith, M.B., I.M.S. (Bengal), are placed temporarily at the disposal of the Government of the Punjab.

H. H. RISLEY,

Offg. Secretary to the Government of India.

FOREIGN DEPARTMENT.

NOTIFICATION.

Fort William, the 5th February 1903.

No. 186-*G.*—The services of Mr. R. E. Younghusband, of the Indian Civil Service, Deputy Commissioner, 1st Grade, Punjab, are replaced at the disposal of the Government of the Punjab, with effect from the 20th January 1903.

L. W. DANE,

Offg. Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

STATISTICS AND COMMERCE.

CUSTOMS.

Calcutta, the 7th February 1903.

No. 644-*S.R.*—In exercise of the power conferred by section 22 of the Sea Customs Act, 1878 (VIII of 1878), and in supersession of the value fixed in columns 3 and 4 of the schedule appended to the Notification by the Government of India in the Finance and Commerce Department, No. 377-S.R., dated the 23rd January 1903, for the article specified in column 2 of the schedule hereto annexed, the Governor-General in Council is pleased to fix for the said article the value stated in column 5 of the said schedule :—

Number in Tariff Schedule.	Name of article.	Per	Present valuation.	Revised valuation.
1	2	3	4	5
	Articles of food and drink.		Rs. A.	Rs. A.
8	Sugar, soft or raw, other than from Mauritius, Egypt or China.	Cwt.	8 0	8 8

E. N. BAKER,

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Fort William, the 6th February 1903.

CANTONMENTS.

REGULATIONS.

No. 93.—In the second entry in column 2 of Schedule IV of the Cantonment Code, 1899, published with the Notification of the Government of India in the Military Department, No. 664, dated the 16th June 1899, for the words "not less than one hundred rupees a month" *read* "not less than twenty-five rupees a month."

PROMOTIONS.

INDIAN ARMY.

No. 94.—The following promotions are made, subject to His Majesty's approval:—

* * * * * * * *

Lieutenants to be Captains.

31st January 1903.

* * * * * * * *

Bartholomew Denis Fitzpatrick.

* * * * * * * *

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

North-Western Railway Volunteer Rifles.

No. 111.—Captain Cyril Hitchcock resigns his commission, with effect from the 9th of January 1903.

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Calcutta, the 5th February 1903.

No. 46.—Rai Sahib Dharm Singh Soin, Assistant Engineer, 1st Grade, Punjab, is permitted to retire from the service of Government, with effect from the afternoon of the 16th January 1903, under the provisions of Article 485, Civil Service Regulations.

S. PRESTON,

Secretary to the Government of India.

CEMETERY NOTICE.

The monument erected to the memory of Private W. Biddle, 32nd Regiment, who died in the year 1850, is tumbling down, and unless repaired within three months will be demolished and the tablet placed in the wall of the cemetery.

The monument erected to the memory of Ellen, the wife of Colour Sergeant W. Pearce, 32nd Regiment, is tumbling down, and unless repaired within three months will be demolished and the tablet placed in the wall of the cemetery.

R. A. STORRS,

Chaplain.

JULLUNDUR,

26th January, 1903.

Punjab Government Press, Lahore—12-2-03—635.

Government Gazette

PUNJAB AND IT'S DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, FEBRUARY 19, 1903

PART II.

Republications from the "Gazette of India.

FROM THE "GAZETTE OF INDIA," DATED FEBRUARY 14, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

JUDICIAL.

Calcutta, the 11th February 1903.

No. 270.—In exercise of the power conferred by Section 8 of the Administrators General and Official Trustees Act, 1902 (V of 1902), the Governor-General in Council is pleased to direct that, where a citizen of the United States of America dies in British India, and it appears that there is no one in British India, other than the Administrator General, entitled to apply to a Court of competent jurisdiction for letters of administration of the estate of the deceased, letters of administration shall, on the application to such Court of any consular officer of the United States of America, be granted to such consular officer on such terms and conditions as the Court may, subject to the following rules, think fit to impose, namely :—

I.—Where the deceased has not left in British India any known heirs or testamentary executors by him appointed, the local authorities, if any, in possession of the property of the deceased, shall at once inform the nearest consular officer of the United States of America of the circumstance, in order that the necessary information may be immediately forwarded to persons interested.

II.—Such consular officer shall have the right to appear, personally or by delegate, in all proceedings on behalf of the absent heirs or creditors of the deceased until they are otherwise represented.

ECCLESIASTICAL.

The 12th February 1903.

No. 56.—The Reverend Henry Noel Bridge has been appointed as Chaplain on probation on the Bengal (Lahore) Ecclesiastical Establishment to fill an existing vacancy.

H. H. RISLEY,

Offg Secretary to the Government of India.

FOREIGN DEPARTMENT.

NOTIFICATION.

Fort William, the 13th February 1903.

No. 247 *G.*—The undermentioned officer has been selected as a probationer for the Political Department of the Government of India, and is temporarily attached to the Punjab Commission as a Supernumerary Assistant Commissioner with effect from the date on which he assumes charge of his duties :—

Lieutenant T. H. Keyes, Indian Army.

L. W. DANE,

Offg. Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

SEPARATE REVENUE.

POST OFFICE.

Calcutta, the 10th February 1903.

No. 721-*S.R.*—In exercise of the powers conferred by Sections 34 and 43 of the Indian Post Office Act, 1898 (VI of 1898), the Governor-General in Council is pleased to direct that the undermentioned amendments shall be made, with effect from the 1st April 1903, in the rules published in the Notification in this Department, No. 1429c-S. R., dated the 30th March 1899 :—

(1) For the schedule of fees given in rule 66 substitute the following :—

Schedule of fees.

On any sum specified for recovery not exceeding Rs. 5	1 anna.	
" " " specified for recovery exceeding Rs. 5, but not exceeding Rs. 10	2 annas.	
" " " specified for recovery exceeding Rs. 10, but not exceeding Rs. 15	3 "	
" " " specified for recovery exceeding Rs. 15, but not exceeding Rs. 25	4 "	
" " " specified for recovery exceeding Rs. 25	4 "	for each complete sum of Rs. 25 and 4 annas for the remainder, provided that, if the remainder does not exceed Rs. 5, the charge for it shall be only 1 anna; if it does not exceed Rs. 10, the charge for it shall be only 2 annas; and if it does not exceed Rs. 15, the charge for it shall be only 3 annas.

(2) For rule 79 substitute the following :—

79. A commission on the issue of inland money orders shall be charged at the following rates, namely :—

On any sum not exceeding Rs. 5 ...	1 anna.	
" " " exceeding Rs. 5, but not exceeding Rs. 10	2 annas.	
" " " " Rs. 10, but not exceeding Rs. 15	3 "	
" " " " Rs. 15, but not exceeding Rs. 25	4 "	
" " " " Rs. 25	4 "	for each complete sum of Rs. 25 and 4 annas for the remainder, provided that, if the remainder does not exceed Rs. 5, the charge for it shall be only 1 anna; if it does not exceed Rs. 10, the charge for it shall be only 2 annas; and if it does not exceed Rs. 15, the charge for it shall be only 3 annas.

STATISTICS AND COMMERCE.

CUSTOMS.

The 13th February 1903.

No. 793-*S. R.*—The Governor-General in Council is pleased to direct that refunds shall be made of the difference, as indicated below, between (*a*) the rates of additional duty actually charged, under Notification No. 523-S. R., dated the 1st February 1901, on the different kinds of Austro-Hungarian sugar imported into India which were shipped from Austria-Hungary or from ports of other countries, from the 1st of August 1901 to the 31st July 1902, inclusive, and (*b*) the rates now ascertained to be so chargeable thereon after making allowance for the maximum bounty paid by the Austro-Hungarian Government. Such refunds will be made to the importers concerned, that is to say, to the person by whom the duty was originally paid on application to the Collector of Customs to whom the duty was paid, evidence that the sugar was exported from Austria-Hungary during the period mentioned above and evidence regarding the rate and amount of duty paid being furnished to the satisfaction of the Collector.

Kinds of sugar.	(*a*) Rates of additional duty actually charged.	(*b*) Rates now ascertained to be chargeable.	Difference to be refunded.
	Per cwt.	Per cwt.	Per cwt.
	Rs. A. P.	Rs. A. P.	Rs. A. P.
Sugar under 99·3 per cent. and of at least 90 per cent. polarization.	1 0 3	0 11 3	0 5 0
Sugar of at least 99·3 per cent. polarization	1 7 4	1 0 2	0 7 2

E. N. BAKER,

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Fort William, the 13th February 1903.

FURLOUGH AND LEAVE.

No. 124.—With the approval of the Right Hon'ble the Secretary of State for India, it is hereby notified, with referenee to G. G. O. No. 51 of 1903, that the Leave Rules for the Staff Corps shall in future be designated "Leave Rules of 1886 for the Indian Army."

LONDON GAZETTE.

No. 125.—The following extracts are published for general information :—

"*London Gazette,*" *dated the 16th January* 1903, *pages* 309, 312, 313 and 314.

WAR OFFICE,

16th January 1903.

* * * * * * * *

MEMORANDA.

* * * * * * * *

Major A. H. McMahon, C.S.I., C.I.E., Indian Army, is granted the temporary rank of Colonel whilst employed on special duty on the Seistan Frontier. Dated 1st January 1903.

* * * * * * * *

PROMOTIONS.

INDIAN ARMY.

No. 128.—The following promotions are made, subject to His Majesty's approval:—

Majors to be Lieutenant-Colonels.

* * * * * * * *

12th February 1903.

Ernest Inglis.

* * * * * * * *

VOLUNTEER CORPS.

MEDALS AND DECORATIONS.

No. 144.—His Excellency the Governor General of India is pleased to confer the Volunteer Officers' Decoration upon the undermentioned officers of the Indian Volunteer Force:—

* * * * * * * *

2nd Punjab (Simla) Volunteer Rifles.

Major John McDermott.

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

CEMETERY NOTICE.

The monument erected to the memory of Private W. Biddle, 32nd Regiment, who died in the year 1850, is tumbling down, and unless repaired within three months will be demolished and the tablet placed in the wall of the cemetery.

The monument erected to the memory of Ellen, the wife of Colour-Sergeant W. Pearce, 32nd Regiment, is tumbling down, and unless repaired within three months will be demolished and the tablet placed in the wall of the cemetery.

JULLUNDUR: R. A. STORRS,

26th January 1903. *Chaplain.*

Punjab Government Press, Lahore—13-2-03—635

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, FEBRUARY 26, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED FEBRUARY 21, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

EXAMINATIONS.

Calcutta, the 20th February 1903.

No. 56.—The following list shows the names of selected candidates and the marks obtained by them in each subject at the recent examination for clerkships in the Lower

Division of the Secretariat offices of the Government of India and the Departments directly attached thereto:—

No.	Names of candidates in order of merit.	Date of birth.	Date on which the candidate will attain the age of 25 years.	English composition (Essay writing and Drafting).	Précis-writing.	History (English and Indian).	Geography.	Elementary Mathematics.	Shorthand writing (optional).	TOTAL.	Government under which the candidate is eligible for appointment.	Office in which the candidate elects to serve.
				100	100	50	50	50	75	425		
1	Satis Chandra Banerjee.	10th May 1879.	10th May 1904.	60	72	29	34	39	...	234	Govenment of India.	Home, Revenue and Agriculture, Financial, or Public Works Department.
2	Hari Das Datta	13th September 1879.	13th September 1904.	59	51	29	27	38	29	233	"	Any Secretariat office.
3	Barkat Ali ...	2nd February 1883.	2nd February 1908.	45	46	14	31	32	62	230	"	Home Department or Department of Revenue and Agriculture.
4	Sidheswar Dutta	26th November 1880.	26th November 1905.	39	31	22	23	32	67	214	"	Any Secretariat office.
5	D. C. Roy ...	1st November 1879.	1st November 1904.	62	64	22	24	26	...	198	"	Ditto.
6	Ashutosh Coomar	23rd February 1879.	23rd February 1904.	66	62	22	19	25	...	194	"	Home Department or Office of the Director-General of the Post Office of India.
7	Din Muhammad	13th July 1881.	13th July 1906.	35	52	17	12	23	52	191	"	Home Department.
8	Hari Gopal Bhattacharjee.	10th September 1883.	10th September 1908.	39	52	34	26	29	...	180	"	Any Secretariat office.
9	Surendra Bhusan Roy.	19th November 1882.	19th November 1907.	49	54	27	21	25	...	176	"	Ditto.
10	Mani Ram Sharma.	26th June 1882.	26th June 1907.	41	33	24	13	24	35	170	"	Home Department.
11	Hari Chand ...	17th February 1883.	17th February 1908.	37	60	16	25	30	...	168	"	Ditto.
11	Keshab Deva Bhargava.	10th February 1879.	10th February 1904.	40	40	18	28	42	...	168	"	Accountant-General, Public Works Department.
13	Romesh Chandra Roy Chaudhurry.	6th November 1883.	6th November 1908.	49	71	30	...	14	...	164	"	Home or Military Department.
14	Kishen Lal ...	24th February 1881.	24th February 1906.	59	46	24	13	11	...	153	"	Home, Revenue, Military, or Public Works Department.

MEDICAL.

The 18th February 1903.

No. 192.—The services of Captain P. St. C. More, M.B., I.M.S, (Bengal), are placed permanently at the disposal of the Government of the Punjab, with effect from the 4th August 1902.

ECCLESIASTICAL.

The 20th February 1903.

No. 91.—The services of the undermentioned officers are replaced at the disposal of the Government of the Punjab:—

The Ven'ble H. W. Griffith, Archdeacon of Lahore.

The Reverend K. G. Foster, a Chaplain on the Bengal (Lahore) Ecclesiastical establishment.

H. H. RISLEY,

Offg. Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

RESOLUTION.

EMIGRATION.

Calcutta, the 20th February 1903.

Resolution of the Government of India in the Department of Revenue and Agriculture, No. 4—2-4 Emigration, dated 20th February 1903.—In the Resolution of this Department, No. 2—2-2, published on the 16th January last, the announcement was made that an Act had been passed by the Government of Cape Colony, similar to the "Immigration Restriction Act, 1901," of Australia, the effect of which was practically to exclude altogether from the Colony Indians of the labouring and petty trading classes. This Act came into force on the 30th ultimo.

2. The Government of India have now received from his Majesty's Secretary of State for India a copy of this Act. Its more important provisions are extracted below for general information :—

* * * * * * * *

2. In the construction of this Act, the following expressions shall, unless the contrary intention appears, bear the meanings hereby respectively assigned to them, that is to say :—

"Ship" shall include any ship, vessel or boat, or description thereof, used in navigation.

"Master" shall include any person other than a pilot in charge or command of any ship.

"Prohibited immigrant" shall mean and include the following persons :—

(*a*) Any person who, when asked to do so by any duly authorized officer, shall be unable through deficient education to himself write out and sign in the characters of any European language an application to the satisfaction of the Minister.

(*b*) Any person who is not in possession of visible means of support or is likely to become a public charge.

* * * * * * * *

3. This Act shall not apply to—

* * * * * * * *

(*e*) The wife and minor child of any person who is permitted to immigrate into the Colony under the provisions of this Act.

(*f*) Persons domiciled in South Africa.

* * * * * * * *

4. Subject to the provisions of this Act, it shall be unlawful for any "prohibited immigrant" to immigrate either by land or by sea into this Colony.

5. It shall be unlawful to aid or assist any person to immigrate into this Colony in contravention of the provisions of this Act.

6. It shall be unlawful for the master of any ship knowingly to permit to land or be landed directly or indirectly from his ship any person immigrating into this Colony in contravention of the provisions of this Act.

7. It shall be lawful for the Governor from time to time by proclamation to make regulations * * * to provide for the importation, reception, accommodation, maintenance, registration, distribution, and contractual engagements of persons immigrating under any approved scheme or belonging to any excepted class, and generally, in furtherance of the objects and intents of this Act.

8. Any person immigrating into this Colony by land or sea in violation of the provisions of this Act, shall be liable to be removed at any time from within the limits of the Colony and to be kept in such custody as may by regulation be prescribed, pending such removal.

9. Any person who aids or assists any person in the contravention of any provisions of this Act, shall be liable for each offence to a penalty of £50, or in the alternative to three months' imprisonment with or without hard labour.

10. Any master of any ship who lands or allows to land, directly or indirectly, any immigrant from his ship, whereby such immigrant contravenes any provisions of the Act, and the owners of any such ship from which any such immigrant so lands, shall be jointly and severally liable to a penalty of £100, and to a further penalty of £20 for each such immigrant landed in excess of the number of five, such ship may be refused a clearance till such penalty has been paid and may in default of payment by or on behalf of the master or owners and by order of the Supreme Court be attached and declared executable in satisfaction of any writ issued for the recovery of such penalty: provided that in lieu of granting such order, it shall be lawful for the Court to accept such security for the payment of such penalty as may appear to be adequate.

11. Any person wilfully making any false statement in order to obtain any certificate or recommendation for the purposes of the Act shall on conviction be liable to a fine of not exceeding £50, or to imprisonment without the option of a fine and with or without hard labour for a period not exceeding six months in addition to removal from the Colony.

* * * * * * * *

13. It shall be lawful for the Governor to prescribe penalties for the contravention of any regulation made by him under this Act, provided that no penalty in respect of any one contravention shall exceed a fine of £100, or, in default of payment thereof, imprisonment with or without hard labour for a period exceeding 12 months or to imprisonment with or without hard labour and without the option of a fine for a period exceeding 12 months.

14. This Act may be cited as "The Immigration Act, 1902."

The Secretary to the Government of Madras.
" " " " Bombay.
" " " " Bengal.
" " " " the United Provinces.
" " " " the Punjab.
" " " " Burma.
" Honourable the Chief Commissioner, Central Provinces.
" " " Assam.
" Chief Commissioner, Coorg.
" " Ajmer-Merwara.
" Honourable the Resident at Hyderabad.
" " the Chief Commissioner, North-West Frontier Province.
" " the Agent to the Governor-General, Baluchistan.

ORDERED, that a copy of the above Resolution be forwarded to the Local Governments and Administrations noted in the margin for information and guidance, and to the Home and Foreign Departments for information.

J. O. MILLER,

Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATIONS.

STATISTICS AND COMMERCE.

CUSTOMS.

Calcutta, the 20th February 1903.

No. 975-*S. R.*—With reference to section 8-B., sub-section (3), of the Indian Tariff Act, 1894 (VIII of 1894), as amended by the Indian Tariff (Amendment) Act, 1902 (VIII of 1902), the Governor General in Council is pleased to declare the amount, as ascertained and determined by him, of the excess referred to in sub-section (1) of the said section to be, in the case of the countries mentioned in the first column of the schedule hereto annexed, the sums specified in the third column of the said schedule for the kinds of sugar specified in the second column thereof.

2. In exercise of the powers conferred by sub-section (1) of the said section 8-B., the Governor General in Council is pleased to impose, with effect from the 1st March 1903, a special duty, at the rates specified in the fourth column of the said schedule, upon sugar of the kinds described in the second column, when imported into British India from the countries mentioned in the first column, whether the same is imported directly from the country of

production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture of otherwise.

The Schedules.

Countries.	Kinds of sugar.	Amount oexcess per cwt.	Rate of special duty per cwt.
1	2	3	4
		Rs. A. P.	Rs. A. P.
France	Refined sugar	1 3 4	0 9 8
	Unrefined sugar	1 0 10	0 8 5
Denmark	Candy and sugar in whole or broken, loaves, plates, cakes, etc., whatever the colour may be, and white pulverised sugar which is lighter than the Amsterdam standard sample No. 18 ...	1 1 8	0 8 10
Argentine Republic ...	Refined sugar	10 14 10	5 7 5
	Unrefined sugar	8 1 4	4 0 8
Russia	Refined sugar	19 4 4	9 10 2
	Unrefined sugar	11 15 8	5 15 10

No. 977-*S. R.*—In exercise of the power conferred by section 9 of the Indian Tariff Act, 1894 (VIII of 1894), the Governor General in Council is pleased to cancel, with effect from the 1st March 1903, the Notification of the Government of India, No. 4600-S. R., dated the 6th October 1899, in which revised rates of additional duties were imposed on sugar produced in or exported from Russia.

E. N. BAKER,
Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Fort William, the 20th February 1903.

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

1st Punjab Volunteer Rifles.

No. 160.—Second-Lieutenant William Hawkins to be Lieutenant, *vice* Wilson, transferred to the Supernumerary List.

Second-Lieutenant Harry Young Spencer resigns his commission.

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Calcutta, the 18th February 1903.

No. 64.—Mr. H. F. B. Frost, Executive Engineer, 1st grade, Punjab, is appointed to officiate as a Superintending Engineer with effect from the 9th February 1903.

S. PRESTON,
Secretary to the Government of India.

Punjab Government Press, Lahore—26-2-03—635.

Government Gazette

PUNJAB AND IT'S DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MARCH 5, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED FEBRUARY 28, 1903.

MILITARY DEPARTMENT.

Fort William, the 27th February 1903.

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

North-Western Railway Volunteer Rifles.

No. 183.—Lieutenant Thomas Gracey, Royal Engineers, to be Second Lieutenant, with effect from the 3rd February 1903, *vice* Williams, transferred to the supernumerary list.

MEDALS AND DECORATIONS.

No. 185.—The undermentioned members of the Indian Volunteer Force are granted the Volunteer Long Service Medal under the provisions of clause 152, India Army Circulars of 1895:—

*   *   *   *   *   *

1st Punjab Volunteer Rifles.

Orderly Room Sergeant R. A. Matthews.
Sergeant J. F. Barnes.
Volunteer R. T. Albert.
" F. A. LeMeur.
" R. E. Scaife.

2nd Punjab (Simla) Volunteer Rifles.

Volunteer T. B. Heysham.

*   *   *   *   *   *

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATIONS.

Calcutta, the 25th February 1903.

No. 87.—With reference to Public Works Department Notification No. 455 dated 5th December 1902, Mr. J. Benton, C.I.E., is confirmed in the appointment of Chief Engineer and Secretary to the Government of the Punjab in the Irrigation Branch, with effect from the 18th December 1902.

No. 89.—The Governor-General in Council is pleased to order the following promotions and reversions to and in the classes of Chief and Superintending Engineers attached to the Irrigation, Roads and Buildings Branch, with effect from the dates specified :—

Names.	From	To	Nature of promotion.	With effect from
*	*	*	*	*
Murray, F. C. ...	Superintending Engineer, 1st Class, *temporary rank.*	Superintending Engineer, 2nd Class.	Reversion ...	11th November 1902.
Pargiter, E. H. ...	Superintending Engineer, 2nd Class, *temporary rank.*	Executive Engineer, 1st Grade, and Officiating Superintending Engineer.	Ditto ...	Ditto.
Benton, J. ...	Superintending Engineer, 1st Class, and Officiating Chief Engineer.	Chief Engineer, 1st Class.	Temporary ...	12th November 1902.
*	*	*	*	*
Field, G. M. R. ...	Chief Engineer, 3rd Class, *temporary rank.*	Superintending Engineer, 1st Class.	Reversion ...	12th November 1902.
*	*	*	*	*
Jacob, L. M. ...	Superintending Engineer, 1st Class, *temporary rank.*	Superintending Engineer, 2nd Class	Reversion ...	3rd December 1902.
Brodie, W. P. ...	Superintending Engineer, 2nd Class, *temporary rank.*	Executive Engineer, 1st Grade.	Ditto ...	Ditto.
*	*	*	*	*
Hatten, J. J. ...	Officiating Superintending Engineer.	Executive Engineer, 1st Grade.	Reversion ...	5th December 1902.
*	*	*	*	*
Benton, J. ...	Superintending Engineer, 1st Class, and Chief Engineer, 1st Class, *temporary rank.*	Chief Engineer, 1st Class.	Permanent ...	18th December 1902.
Thurburn, Colonel J. W., R.E.	Chief Engineer, 3rd Class, and Chief Engineer, 1st Class, *temporary rank.*	Chief Engineer, 2nd Class and Chief Engineer, 1st Class.	Permanent, Temporary.	Ditto.
*	*	*	*	*
Mullaly, J. J. ...	Superintending Engineer, 1st Class, *temporary rank.*	Superintending Engineer, 1st Class,	Permanent ...	21st December 1902.

Names.	From	To	Nature of Promotion.	With effect from
Jacob, L. M. ...	Superintending Engineer, 2nd Class.	Superintending Engineer, 1st Class.	Temporary ...	21st December 1902.
Pargiter, E. H. ...	Executive Engineer, 1st Grade, and Officiating Superintending Engineer.	Superintending Engineer, 2nd Class.	Permanent ...	Ditto.
*	*	*	*	*
Thurburn, Colonel J. W., R.E	Chief Engineer, 1st Class, *temporary rank.*	Chief Engineer, 1st Class.	Permanent ...	25th December 1902.
*	*	*	*	*
Goument, C. E. V. ...	Officiating Superintending Engineer.	Superintending Engineer, 3rd Class.	Temporary ...	7th January 1903.
*	*	*	*	*
Abbott, Lieutenant-Colonel H. E. S., D.S.O., R.E.	Superintending Engineer, 3rd Class.	Superintending Engineer, 2nd Class.	Temporary ...	6th February 1903.
Barratt, C. H. ...	Officiating Superintending Engineer.	Executive Engineer, 1st Grade.	Reversion ...	Ditto.
Jacob, L. M. ...	Superintending Engineer, 1st Class, *temporary rank.*	Superintending Engineer, 1st Class.	Sub. *pro tem.* ...	9th February 1903.
Murray, F. C. ...	Superintending Engineer, 2nd Class.	Superintending Engineer, 1st Class.	Temporary ...	Ditto.
*	*	*	*	*
Hatten, J. J. ...	Officiating Superintending Engineer.	Superintending Engineer, 2nd Class.	Temporary ...	9th February 1903.
*	*	*	*	*
Baker, H. V. S. ...	Superintending Engineer, 2nd Class.	Superintending Engineer, 1st Class.	Temporary ...	13th February 1903.
Frost, H. F. B. ...	Officiating Superintending Engineer.	Superintending Engineer, 3rd Class.	Ditto ...	Ditto.
*	*	*	*	*

S. PRESTON,

Secretary to the Government of India.

Punjab Government Press, Lahore—6-3-03—635.

DIEU ET MON DROIT. HONI SOIT QUI MAL Y PENSE

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MARCH 12, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED MARCH 7, 1903.

HOME DEPARTMENT.

NOTIFICATION.

SANITARY.

PLAGUE.

Calcutta, the 5th March 1903.

No. 369.—Whereas the Governor-General in Council is satisfied that the Karnal District in the Punjab is visited by an outbreak of dangerous epidemic disease and that there is a danger of its spread if pilgrims or or other persons are permitted to assemble at or near Thanesar in that district on the occasion of the ensuing Karukshetra Sun Eclipse Fair:

In exercise of the power conferred by section 2, sub-section (1), of the Epidemic Diseases Act, 1897 (III of 1897), the Governor-General in Council is pleased to direct that no tickets to travel by railway to any station between Ambala Cantonment and Karnal (both inclusive) on the Delhi-Ambala-Kalka Railway and to any station between Ambala City and Saharanpur (both inlusive) on the North-Western Railway shall be sold from the 20th to the 30th March 1903 (both days inclusive) within any part of India (other than the Punjab, in respect of which orders on this behalf have been issued by the Government of the Punjab) to any pilgrim or other person intending or believed to be intending to proceed on pilgrimage to the Kurukshetra Sun Eclipse Fair near Thanesar in the Karnal District in the Punjab.

H. H. RISLEY,

Offg. Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

CIVIL VETERINARY ADMINISTRATION.

Calcutta, the 3rd March 1903.

No. 363.—10-7.—Veterinary Lieutenant J. Farmer, M. R. C. V. S., Civil Veterinary Department, Superintendent, Government Cattle Farm, Hissar, is granted privilege leave for 2 months and 28 days in combination with furlough for four months with effect from the 1st April 1903, or the subsequent date on which he may avail himself of it.

No. 364.—10-7.—Mr. E. W. Oliver, M. R. C. V. S., Superintendent, Civil Veterinary Department, South Punjab, is appointed Superintendent, Government Cattle Farm, Hissar, during the absence on leave of Veterinary Lieutenant J. Farmer.

J. O. MILLER,

Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATIONS.

SEPARATE REVENUE.

POST OFFICE.

Calcutta, the 2nd March 1903.

No. 1215-*S.R.*—In exercise of the power conferred by Section 10 (*a*) of the Indian Post Office Act, 1898 (VI of 1898), the Governor-General in Council is pleased to declare that in the list of British Possessions, for which the letter rate of postage is one nana for half ounce, mentioned in Part I, rule 3, of the Notification in this Department, No. 1429-C.—S.R., dated the 30th March 1899 (published in the *Gazette of India* of the same date) as amended by Notification No. 1951-S.R., dated the 10th April 1902, "Chefoo" shall be inserted between "Canton" and "Foochow" among the British Postal Agencies in China.

STATISTICS AND COMMERCE.

CUSTOMS.

The 3rd March 1903.

No. 1248-*S.R.*—In exercise of the power conferred by section 134 of the Sea Customs Act, 1878 (VIII of 1878), the Governor-General in Council is pleased to prohibit the transhipment at Karachi of sugar destined for any of the ports specified below; and, in exercise of the power conferred by section 111 of the said Act, the Governor-General in Council is further pleased to prohibit the shipment at Karachi of warehoused sugar for exportation to any of the said ports:—

PORTS.

On the Mekran Coast.

Sonmiani.
Lyari.
Gagoo.
Ormara.
Pansi.
Gwadar.
Gwatar.
Charbar.
Girishk.
Jask.

PORTS—*concluded.*

On the Persian Coast.

Kishm
Bandar Abas.
Lingah.
Bushire.
Mohammerah.

In Asiatic Turkey.

Fao.
Basra.
Bagdad.
Koweit.
Katif.

On the Arabian Coast.

Bahrein.
Abu-Dthabi.
Debaye.
Shargah.
Ejinan.
Ras-el-Khaima.
Muscat.
Soor.
Makallah.

E. N. BAKER,

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Fort William, the 6th March 1903.

PROMOTIONS.

No. 197.—The following promotions are made, subject to His Majesty's approval:—

* * * * * * * *

INDIAN MEDICAL SERVICE.

BENGAL ESTABLISHMENT.

Captains to be Majors.

The 31st January 1903.

* * * * * * * *

Charles Henry James.

* * * * * * * *

Arthur William Treminhere Buist, M. B.

BOMBAY ESTABLISHMENT.

Lieutenants to be Captains.

The 27th January 1903.

* * * * * * * *

George Browse.

* * * * * * * *

Matthew Corry, M. B.

* * * * * * * *

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

THE HONOURABLE THE AGENT TO THE GOVERNOR-GENERAL AND CHIEF COMMISSIONER, NORTH-WEST FRONTIER PROVINCE.

NOTIFICATION.

EXAMINATION.

Peshawar, the 25th February 1903.

No. 28.—The next half-yearly Examination in the Pashtu language by the Higher Standard will be held at Peshawar, Dera Ismail Khan, Gilgit, Chitral, Quetta and Meean Meer on the 3rd April 1903, and following day.

The Examination for Tahsildars, Naib Tahsildars and Subordinate officers of the Police and Irrigation Departments will be held at Peshawar and Dera Ismail Khan on the 6th April 1903.

By order,
R. I. R. GLANCY,
Assistant Secy. to the Chief Commissioner, N.-W. F. Province.

Punjab Government Press, Lahore—13-3-03—632.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MARCH 19, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED MARCH 14, 1903.

MILITARY SECRETARY'S OFFICE.

Calcutta, the 12th March 1903.

No. 194-*M.*—His Excellency the Viceroy and Governor-General will leave Calcutta on Wednesday, the 25th Marcn 1903, starting by special train from Howrah at 8 P.M., Calcutta time.

His Excellency will visit Chakia (Benares), Allahabad, Rewah, Gwalior and Kasauli, and arrive at Simla on the 24th April at 2 P.M.

His Excellency's departure from Calcutta and arrival at Simla will be private.

All covers intended to reach His Excellency the Viceroy and Governor-General and party during His Excellency's journey should be addressed "Viceroy's Camp," without the addition of any post-town.

The party accompanying His Excellency on tour will be as follows:—

Lieutenant-Colonel the Hon'ble E. Baring, C.V.O., Military Secretary to the Viceroy.

Captain W. E. A. Armstrong, I.M.S., Surgeon to the Viceroy.

Captain R. G. T. Baker-Carr, A.-D.-C.

Captain C. Wigram, A.-D.-C.

F. W. Latimer, Esq., C.I.E., Assistant Private Secretary to the Viceroy.

All communications, connected with business of a mere routine nature, should be sent, as usual, to the head-quarters of the several Departments.

EVERARD BARING, LIEUT.-COL.,

Military Secretary to the Viceroy.

HOME DEPARTMENT.

NOTIFICATION.

PUBLIC.

Calcutta, the 13th March 1903.

No. 1061.—In accordance with the provisions of Section 18 of the Indian Explosives Act, 1884 (IV of 1884), and with the directions contained in the Notification of the Government of India in the Home Department, No. 1964, dated the 2nd September 1887, the Governor-General in Council is pleased to publish, for the information of persons likely to be affected thereby, the following draft of amendments which it is proposed to make in the rules to regulate the transport and importation of explosives, published with the like Notification No. 5528, dated the 11th October 1901.

The draft will be taken into consideration on or after the 1st June 1903.

Draft amendments.

I. For paragraph 2 of Rule 8, which runs as follows:—

"Provided that any explosive other than an explosive specified in rule 11 may, previous to the grant of an importation license, if certified to be of British manufacture, or, if not of British manufacture, if imported from the United Kingdom and covered by the certificate granted by one of His Majesty's Inspectors of Explosives in England, be landed in accordance with such regulations as the Local Government may prescribe in this behalf, and be stored in a place set apart by the Local Government for this purpose. The Governor-General in Council may extend this privilege to any such explosive not of British manufacture regarding which he is satisfied that it has been manufactured under adequate official supervision,"

the following paragraph shall be substituted, namely:—

"Provided that any explosive other than explosive specified in rule 11 may, previous to the grant of an importation license, if certified to be of British manufacture or, if not of British manufacture, if imported from the United Kingdom and covered by the certificate granted by one of His Majesty's Inspectors of Explosives in England, be landed in accordance with such regulations as the Local Government may prescribe in this behalf, and be stored in a place set apart by the Local Government for this purpose, or in any of such private magazines as the said Government may have notified as being suitable for this purpose. Any such explosive of British manufacture may also be transported by rail to any of such private magazines previous to the grant of an importation license. The Governor-General in Council may extend to any such explosive not of British manufacture regarding which he is satisfied that it has been manufactured under adequate official supervision the privilege of landing granted by this proviso, but such explosives may not be transported by rail until an importation license has been granted."

II. In rule 10, after the words "An explosive shall not be imported by sea except at one of the Ports of Calcutta" the words "(including Moyapur and Diamond Harbour)" shall be inserted.

III. In the second clause of rule 15, for the words "All explosives of which samples are taken for examination shall be forthwith deposited in a duly licensed place or places of storage," the words "All explosives of which samples are taken for examination shall forthwith be deposited in a place or magazine set apart or notified under the proviso to rule 8" shall be substituted.

IV. At the end of condition 3 to License Form A attached to the rules, the words "except in the case of explosives despatched to places or magazines set apart or notified under the proviso to rule 8" shall be added.

H. H. RISLEY,

Offg. Secretary to the Government of India.

FOREIGN DEPARTMENT.

NOTIFICATIONS.

Fort William, the 13th March 1903.

No. 1244-*I-B*.—Whereas the Rulers of the States mentioned in the second column of the Schedule hereto annexed have ceded to the British Government full and exclusive power and jurisdiction of every kind within those portions of land which lie within their respective States, and are occupied, or may hereafter be occupied, by the sections of the Ludhiana-Dhuri-Jakhal Railway, the Rajpura-Bhatinda Railway, and the Southern Punjab Railway, respectively, lying within the said States (including the lands occupied by stations, by out-buildings, and for other railway purposes), and over all persons and things whatsoever within the said portions of land:

In exercise of such power and jurisdiction and of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, the Governor-General in Council is pleased to provide as follows for the administration of criminal justice within the aforesaid portions of land, namely:—

(1) The provisions, so far as they may be suitable, and as amended from time to time by subsequent enactments, of the Acts mentioned below, are hereby applied to the aforesaid lands namely:—

Number and year.	*Short title.*
Act XLV of 1860	The Indian Penal Code.
" V of 1861	The Police Act, 1861.
" VI of 1864	The Whipping Act, 1864.
" I of 1871	The Cattle-trespass Act, 1871.
" III of 1888	The Police Act, 1888.
" V of 1898	The Code of Criminal Procedure, 1898.

Provided that, for the purpose of facilitating the application of the provisions of the enactments hereby applied, any Court having jurisdiction within the aforesaid lands may construe them with such alterations, not affecting the substance, as may be necessary or proper to adapt them to the matter before the Court:

Provided also that the Code of Criminal Procedure, 1898, shall be subject to the modification that trials before the Court of Session may, in the discretion of the Judge, be without the aid of jury or assessors.

(2) There shall be a Railway Magistrate for each section of the aforesaid lands, as described in the first column of the Schedule, or for any two or more groups of such sections.

(3) A Railway Magistrate shall be such person as the Lieutenant-Governor for the time being of the Punjab may from time to time, by notification in the local official Gazette, appoint; and he shall exercise, within the section or sections for which he is appointed, the powers conferable on a District Magistrate under Section 30 of the Code of Criminal Procedure, 1898, and the powers of a District Magistrate as described in that Code, respectively:

Provided that, in any case in which the complainant (if any) and all the accused persons are not British subjects, it shall be in the discretion of a Railway Magistrate to decline to exercise the powers hereby conferred upon him.

(4) Each of the officers mentioned in the fourth column of the Schedule shall exercise within the sections described in the first column thereof opposite his name, the powers of a Court of Session. Each such officer may take cognizance of an offence as a Court of original criminal jurisdiction without the accused person being committed to him by a Magistrate, and shall, when so taking cognizance of an offence, follow the procedure laid down by the Code of Criminal Procedure, 1898, for the trial of warrant cases by Magistrates.

(5) The Court mentioned in the fifth column of the Schedule shall exercise, in respect of all the aforesaid lands, the powers of a High Court, in respect of all offences over which jurisdiction is exercised by the officers mentioned in the third and fourth columns of the Schedule.

(6) The powers conferred by this Notification upon the Chief Court of the Punjab may be exercised in British India.

(7) The provisions of clauses (2) to (6) (both inclusive) of this Notification apply to all proceedings except—

(*a*) proceedings against European British subjects or persons jointly charged with European British subjects ; and

(*b*) proceedings pending at the date of this Notification which shall be carried on as if this Notification had not been issued.

THE SCHEDULE.

1	2	3	4	5
Railway.	State.	District Magistrate invested with powers conferable under Section 30 of the Code of Criminal Procedure, 1898.	Court of Session.	High Court.
Ludhiana Dhuri-Jakhal Railway—				
the sections in Maler Kotla territory.	Maler Kotla ...	The Railway Magistrate ...	The Commissioner, Jullundur.	The Chief Court of the Punjab.
the sections in Jind, Nabha and Patiala territory.	Jind, Nabha and Patiala.	Ditto ...	The Political Agent, Phulkian States.	Ditto.
Rajpura-Bhatinda Railway—				
the section between Rajpura and Dhuri junctions.	Nabha and Patiala.	Ditto ...	Ditto ...	Ditto.
the section between Dhuri and Bhatinda junctions.	Ditto	Ditto ...	Ditto ...	Ditto.
Southern Punjab Railway—				
the section in Jind territory.	Jind	Ditto ...	Ditto ...	Ditto.
the two sections between Jind and Budhlada stations.	Patiala ...	Ditto ...	Ditto ...	Ditto.
the two sections between Budhlada and Gaddarbaha stations.	Ditto ...	Ditto ...	Ditto ...	Ditto.

No. 1245-*I. B.*—Whereas the Rulers of the States mentioned in the second column of the Schedule hereto annexed have ceded to the British Government full and exclusive power and jurisdiction of every kind within those portions of land which lie within their respective States, and are occupied, or may hereafter be occupied, by the sections of the Ludhiana-Dhuri-Jakhal Railway, the Rajpura-Bhatinda Railway and the Southern Punjab Railway, respectively, lying within the said States (including the lands occupied by stations, by out-buildings, and for other railway purposes), and over all persons and things whatsoever within the said lands :

In exercise of such power and jurisdiction and of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, the Governor-General in Council is pleased to provide as follows for the administration of civil justice within the aforesaid portions of land :—

(1) The provisions, so far as they may be suitable, and as amended from time to time by subsequent enactments, of the Acts mentioned below, are hereby applied to the aforesaid lands, namely :—

Number and year.		*Short title.*
Act X of 1865	... ...	The Indian Succession Act, 1865.
" VII of 1870	... ...	The Court-fees Act, 1870.
" I of 1872	... ...	The Indian Evidence Act, 1872.
" IX of 1872	... ...	The Indian Contract Act, 1872.
" III of 1877	... ...	The Indian Registration Act, 1877.
" XV of 1877	... ...	The Indian Limitation Act, 1877.
" V of 1881	... ...	The Probate and Administration Act 1881.
" XIV of 1882	... ...	The Code of Civil Procedure.
" XIII of 1885	... ...	The Indian Telegraph Act, 1885.
" IX of 1887	... ...	The Provincial Small Cause Courts Act, 1887.
" VII of 1889	... ...	The Succession Certificates Act, 1889.
" VI of 1898	... ...	The Indian Post Office Act, 1898.
" II of 1899	... ...	The Indian Stamp Act, 1899.

Provided that, for the purpose of facilitating the application of the provisions of the enactments hereby applied, any Court having jurisdiction within the aforesaid lands may construe them with such alterations, not affecting the substance, as may be necessary or proper to adapt them to the matter before the Court.

(2) Each of the officers mentioned in the third column of the Schedule shall exercise within the sections described opposite his name in the first column of the Schedule, the powers of a Divisional Court as defined in Section 22 of the Punjab Courts Act, 1884 (XVIII of 1884).

(3) The Court mentioned in the fourth column of the Schedule shall exercise, in respect of all the aforesaid lands, the powers of the Chief Court as described in the said Punjab Courts Act, 1884, for the purpose of hearing appeals from the decisions and orders of the said Divisional Court and for all other purposes whatever connected with the administration of civil justice within the said lands.

(4) The powers conferred by this Notification upon the Chief Court of the Punjab may be exercised in British India.

THE SCHEDULE.

1 Railway.	2 State.	3 Divisional Court.	4 Chief Court.
Ludhiana-Dhuri-Jakhal Railway—			
the sections in Maler Kotla territory.	Maler Kotla ...	Commissioner, Jullundur ...	The Chief Court of the Punjab.
the sections in Jind, Nabha and Patiala territory.	Jind, Nabha and Patiala.	The Political Agent, Phulkian States.	Ditto.
Rajpura-Bhatinda Railway—			
the sections between Rajpura and Bhatinda junctions.	Nabha and Patiala ...	Ditto ...	Ditto.
Southern Punjab Railway—			
the sections in Jind territory, and the four sections between Jind and Gaddarbaha stations.	Jind and Patiala ...	Ditto ...	Ditto.

No. 1446-*I. B.*—Whereas the Chiefs of Bahawalpur, Bikaner, Jind, Maler Kotla, Nabha and Patiala have ceded to the British Government full and exclusive power and jurisdiction of every kind over the lands lying within their respective territories which are, or may hereafter be, occupied by the Ludhiana-Dhuri-Jakhal Railway, by the Rajpura-Bhatinda Railway and by the Southern Punjab Railway (including the lands occupied by stations, by out-buildings and for other railway purposes), and over all persons and things whatsoever within the said lands:

In exercise of such power and jurisdiction, and of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, the Governor-General in Council is pleased to make the following additions to and modifications in the Schedule to the Notification of the Government of India in the Foreign Department, No. 3063-I.B., dated the 13th August 1897, namely :—

(*a*) After the entries relating to the Kotri-Rohri Railway, the following entries shall be inserted, namely :—

Ludhiana-Dhuri-Jakhal Railway ...	Jind	...	...	The Government of the Punjab.
	Maler Kotla ...	...	...	
	Nabha	...	...	
	Patiala	...	...	

(*b*) After the entries relating to the Rajpipla State Railway, the following entries shall be inserted, namely :—

Rajpura-Bhatinda Railway ...	Nabha	...	...	The Government of the Punjab.
	Patiala	...	...	

(c) For the entries relating to the Southern Punjab Railway, the following entries shall be substituted, namely :—

Southern Punjab Railway ...	Bahawalpur	...	...	...	The Government of the Punjab.
	Bikaner ...	...	...	...	
	Jind ...	...	...	...	
	Patiala ...	...	...	...	

L. W. DANE,

Offg. Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATIONS.

STATISTICS AND COMMERCE.

CUSTOMS.

Calcutta, the 12th March 1903.

No. 144--*S. R.*—In exercise of the powers conferred by Section 23 of the Sea Customs Act, 1878 (VIII of 1878), the Governor-General in Council is pleased to exempt vinegar (in casks) and green copperas, imported into British India on or after the 24th February 1903, from all customs duty in excess of two and a half *per cent. ad valorem.*

E. N. BAKER,

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Fort William, the 13th March 1903.

SPECIAL.

No. 220.—With reference to Article 280, Army Regulations, India, Volume I, Part I, the undermentioned officer, having been absent from military duty for ten years, is transferred to the supernumerary list, with effect from the date specified :—

Captain A. C. Elliott, Indian Army, Assistant Commissioner, Punjab. Dated 9th March 1903.

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

North-Western Railway Volunteer Rifles.

No. 226.—Augustus Fredric Johnston, to be Second-Lieutenant, with effect from the 10th of February 1903, *vice* Thomas Claude Fisher, resigned.

Second-Lieutenant Thomas Claude Fisher resigns his commission, with effect from the 3rd February 1903.

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

Punjab Government Press, Lahore—19-3-03—632.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MARCH 26, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED MARCH 21, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

ESTABLISHMENTS.

Calcutta, the 20th March 1903.

No. 165.—The services of Mr C. H. Harrison, of the Indian Civil Service, are placed temporarily at the disposal of the Finance and Commerce Department.

MUNICIPALITIES.

The 18th March 1903.

No. 58.—With reference to proviso (*b*) to section 5, sub-section (2) of the Punjab Municipal Act, 1891 (XX of 1891), the Governor-General in Council is pleased to direct that, notwithstanding the prohibition contained in the said proviso, the number of appointed members who are salaried officers of the Government may, in the case of the Committee of the Dharmsála Municipality, amount to four.

H. H. RISLEY,

Offg. Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

SEPARATE REVENUE.

Calcutta, the 18th March 1903.

No. 1542 *S. R.*—In exercise of the powers conferred by section 7 of the Indian Salt Act, 1882 (XII of 1882), and in supersession of the Notifications by the Government of India in the Finance and Commerce Department, No. 343, dated the 19th January 1888, No. 474, dated the 27th January 1888, No. 2985, dated the 14th June 1889, No. 823, dated the 25th February 1891, and No. 2547, dated the 12th June 1896, the Governor-General in Council is pleased to direct that on and after the 18th March 1903, the duty to be paid on salt manufactured in, or imported by land into, British India shall be as follows:—

(*a*) in the case of salt manufactured in, or imported by land into, Burma (except the Shan States), one rupee for each maund of 82$\frac{2}{7}$ pounds, avoirdupois;

(*b*) in the case of salt manufactured in the mines in the Kohat District, noted on the margin,* one rupee eight annas for each such maund;

*Jatta, Maigui, Narri, Kanach, Bahadur Khel.

(*c*) in the case of salt manufactured in Aden, one rupee for each 140 pounds, avoirdupois; and

(*d*) in the case of salt manufactured in any part of British India other than Burma, the said mines, or Aden, or imported by land into any part of British India other than Burma, two rupees for each maund of 82$\frac{2}{7}$ pounds avoirdupois.

II. The foregoing order shall not affect the orders contained in the Notifications of the Government of India in the Finance Department, No. 1724, dated the 21st April 1893, and Nos. 4351 and 4352, dated the 16th August 1901, or in any other Notification not hereinbefore expressly mentioned.

E. N. BAKER,

Offg. Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATIONS.

Calcutta, the 14th March 1903.

No. 105.—The services of Lieutenant D. Ogilvie, R.E., Assistant Engineer, 1st Grade, Punjab, temporarily employed in the Military Works Services, are permanently replaced at the disposal of the Military Department.

The 19th March 1903.

No. 111.—The following promotions and reversions are ordered in the Superior Accounts Branch:—

Name.	From	To	Nature of promotion.	With effect from
* * * *	* * * *	* * * *	* * * *	* * * *
J. E. Lacey ...	Examiner, Class IV, 3rd Grade, *s. p. t.*	Examiner, Class IV, 3rd Grade.	Permanent ...	28th October 1902.
* * * *	* * * *	* * * *	* * * *	* * * *

SIDNEY PRESTON,

Secretary to the Government of India.

Punjab Government Press, Lahore—26-3-03—640.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, APRIL 2, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED MARCH 28, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Calcutta, the 26th March 1903.

No. 1437.—Under the provisions of section 9 of the Statute 24 and 25 Victoria, Cap. 67, the Governor General in Council is pleased to direct that His Excellency's Council shall assemble at Simla in the Jurisdiction of the Lieutenant-Governor of the Punjab.

The 27th March 1903.

No. 1438.—In exercise of the power conferred by section 27 of the Indian Arms Act, 1878 (XI of 1878), the Governor General in Council is pleased to exempt from the operation of all prohibitions and directions contained in the Act British officers, and members of Volunteer Corps, in respect of single barrel rifles of ·303 bore used or intended to be used by them for match-shooting purposes, subject to the following conditions :—

(*a*) that only one such rifle at a time shall be imported or used by any individual officer or volunteer ;

(*b*) that the rifle shall be sighted to a range of over 1,000 yards ;

(*c*) that the rifle shall become part of the equipment of the Corps to which the owner may, for the time being, belong ;

(*d*) that the owner shall, at the time of importation, produce a certificate from the Commanding Officer of the Corps to which he belongs, to the effect that the weapon will be brought on to the equipment ledger of the Corps and will be accounted for in the same manner as other equipment ; and

(*e*) that this exemption shall cease to have effect on the owner leaving regimental employ permanently or leaving the Army or the Volunteer force, as the case may be : provided that, if he departs from India immediately after so leaving, he may take the weapon with him.

No. 1452.—In exercise of the power conferred by section 17 of the Indian Arms Act, 1878 (XI of 1878), the Governor General in Council is pleased to direct that the following further amendment shall be made in the Notification of the Government of India in the Home Department, No. 518, dated the 6th March 1879, as amended by subsequent Notifications :—

Paragraph VI, Rule 13-B.—*Omit* the words " to a military officer who is in possession of a rifle or carbine of ·303 bore as part of his military equipment, or " which were inserted in this rule by the Notification of the Government of India in the Home Department, No. 3494, dated the 20th November 1902.

ECCLESIASTICAL.

The 27th March 1903.

No. 139.—The following addition is made to Rule XXIV (8), Part IV of the Ecclesiastical Rules, published with the Home Department Notification No. 178, dated the 17th May 1897 :—

A wheeled bier * * * * * * * 350

NOTE.—In stations where no hearse or other suitable means of conveyance are available, the use of the bier is permissible for the conveyance of the dead to the cemetery.

H. H. RISLEY,

Offg. Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATIONS.

Calcutta, the 25th March 1903.

No. 120.—Mr. E. A. Dennys, Examiner of Public Works Accounts, Punjab, is granted privilege leave for three months in combination with special leave on urgent private affairs for three months under Articles 233, 260 and 316 of the Civil Service Regulations, with effect from 15th April 1903 or subsequent date.

No. 121.—Mr. A. L. Wright, Examiner of Accounts, is, on return from leave, appointed to officiate as Examiner, Public Works Accounts, Punjab, in class III of Examiners.

SIDNEY PRESTON,

Secretary to the Government of India.

FROM THE SUPPLEMENT TO THE "GAZETTE OF INDIA," DATED MARCH 28, 1903.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

FAMINE.

COMMUNICATES THE DECISION OF THE GOVERNMENT OF INDIA ON SOME OF THE RECOMMENDATIONS OF THE FAMINE COMMISSION OF 1901.

No. 7—7-4, Calcutta, the 21st March 1903.

RESOLUTION.

In their Resolution No 12—43-30, dated 26th August 1901, the Government of India reviewed the recommendations made by the Commission appointed to enquire into the administration of relief during the famine of 1899-1900, and while expressing their agreement with the greater number of the valuable and practical suggestions made by the Commission, reserved their final decision on a few points of special importance until they should have had an opportunity of considering the opinions of Local Governments. These Governments were accordingly addressed regarding five special questions and a few minor matters; and the Governor General in Council has now carefully considered the replies which have been received.

2. The five questions arising out of the recommendations of the Commission on which the Government of India specially desired the advice of the Local Governments are the following: —

(1) the extent to which discrimination of persons is feasible in controlling admission to relief-works;

(2) the abolition of the minimum wage in the case of able-bodied workers;

(3) the differentiation of male and female wages, and the adequacy of the wage scale proposed by the Commission;

(4) the use of cooked food as a means of gratuitous relief; and

(5) the maintenance of nominal rolls of relief-workers.

Further matters on which the opinion of Local Governments was asked had reference to the point at which relief operations become of sufficient magnitude to justify the appointment of a Famine Commissioner, and the procedure that should be adopted to secure that the money disbursed on village relief reaches the hands of those for whom it is intended. The question of supplementing the provincial Famine Codes by hand-books, which would conveniently serve as practical guides to officers without previous acquaintance with the administration of famine relief, was also referred for opinion.

3. The most difficult question, and the question which is, next to that of the abolition of the minimum wage, the most important of those referred for opinion, deals with the extent to which discrimination of persons is possible in controlling admission to relief works, or, as it may be termed, the system of personal selection. The Commission referred to this system in paragraphs 57 and 66 of their report, but without discussing it at length. Their conclusions, as explained in subsequent correspondence, were that the principle was admissible in the case of all relief works in "scarcity" districts, and of village works, in those "famine" districts in which reliance is chiefly placed upon public works and village works are only subsidiary; but that it could not be safely extended to the case of public works in any "famine" district, or even to village works in such a district, if those works formed the backbone of the system of relief. The Government of India consulted Local Governments as to whether it would not be possible to go further than was proposed by the Commission and to introduce the principle on all relief-works. The replies of Local Governments indicate a general approval of the principle, combined, in some cases, with hesitation as to the extent to which effect should be given to it in practice. The Governments of Bengal and the United Provinces accept the Commission's recommendations, with the addition (also approved of by the Government of the Punjab) that selection in the case of

public works shall apply only to residents within a radius of four miles of the works. The Government of Burma would apply the principle to village works in all cases, and to public works within the four-mile radius. The Government of Bombay approve of a modified system of selection, with provision for the elimination of the contumaciously idle. The Government of Madras desires to try the system as proposed by the Government of India, though subject to the four-mile limit; but think that until the principle has had a trial on a small scale, and preferably on village works, it should not be accepted unreservedly.

4. The Government of India fully admit the difficulties that may attend the working of a system of selection, but they are impressed with the importance of adopting, under proper safeguards, some measure which will prevent the scandals that occasionally occurred during the last famine. Admission by selection, though not contemplated by the rules, was acted upon in more than one province in the late famine; the principle is accepted by all the Local Governments consulted, though there is difference of opinion as to the extent to which it can be safely carried; and it is clear that, if it is to be introduced at all, its introduction cannot be left to the initiative and responsibility of individual officers, but that a recognized place must be found for it in the scheme of famine relief. At the same time the Governor General in Council recognizes that its value or practicability has not yet been fully established, that this is especially the case when famine is widespread and acute, and that it is desirable to allow considerable freedom of experiment until the working of the principle has been more widely subjected to the test of practical experience. He therefore leaves it to each Local Government to decide in what class of districts, to what class of works, and subject to what limitations and restrictions, it will provide for the extension of the system. In so extending it, however, he desires that the observations contained in the two following paragraphs may be borne in mind.

5. The Government of India think that the conception of selection, as indicated in Nos. 10 and 16 of the draft rules attached to the Circular of 16th September 1901, requires substantial modification, and that selection for admission to public works should stand on an entirely different footing from selection for admission to gratuitous relief. In the latter case the initial presumption is against each individual; it must be shown that he or she is in need of relief. In the former case, the fact that the applicant is ready to perform a famine task for a famine wage creates an initial presumption in his favour; and he should be excluded from the works, only if it can be shown that he is not in need of relief. The Government of India think, therefore, that while in the case of gratuitous relief the system should be one of admission by selection, in the case of relief works it should be one of exclusion by selection; and though exclusion would still ordinarily take the form of refusal of an order of admission, yet the alteration in the conception of the principle would introduce on actual working a less rigid test than that recommended in certain circumstances by the Famine Commission. The rule on the subject would then be, not that orders of admission to relief works should be granted only to persons who have come to the end of their resources, but that orders of admission to relief works should be refused only to persons who have *not* come to the end of their resources.

6. The Governor General in Council further considers it necessary to lay down the following rules for general guidance, as defining the conditions under which alone selection should ordinarily be resorted to:—

(1) Selection should not be attempted unless there is a sufficient staff with local knowledge at its disposal to deal effectively with selection both for gratuitous relief and for admission to works. If the staff is insufficient for both purposes, selection for works must be sacrificed to selection for gratuitous relief, owing to the absence in the latter case of any automatic test.

(2) Selection, when applied to public works, should be confined to those who live within a distance of four miles from the work.

(3) An appeal from the order of exclusion must always be available in the shape of an open relief-work, within a reasonable distance of his home, at which the rejected person may find employment if he really desires it. What distance is reasonable must depend upon the character of the people and their readiness to come on to the works.

(4) The opening of relief-works, when otherwise advisable, should never be delayed because the process of selection is not complete. Relief must never be denied to those who need it, merely to facilitate the exclusion of those who do not. From this point of view the advantage of working on a principle of exclusion by selection rather than of admission by selection is obvious.

7. Subject to these general directions, the Government of India leave it to Local Governments to decide as to the extent to which the principle of personal selection should be recognised in their revised Famine Codes. But while a large discretion is thus left in the application of the principle, it is essential that the rules on the subject to be inserted in any Code should be clear and definite, so that there may be no doubt in the minds of officers administering relief as to their duties in the matter. As a specimen of such rules the New Code of the United Provinces may be referred to, where the conditions of admission to relief-works are dealt with in sectious 83 and 84. Similar rules, modified, where necessary, in accordance with the principles set forth above and with the decision which m)be arrived at in each case as to the application of the system, should be inserted for the approval of the Government of India in the Famine Code of each province when revised to give effect to the recommendations of the Commission. The distinction drawn in the United Provinces between famine and scarcity districts is not formally recognised in all Famine Codes, but Local Governments will probably have no difficulty in prescribing the criterion which they wish to be applied.

8. The most radical and far-reaching of the recommendations of the Commission is the proposal discussed in paragraphs 76—80 of the Report to abandon the minimum wage, which has been an accepted principle of famine administration ever since the Commission of 1880 submitted its Report. During the recent unfortunate series of famines its practical working has been tested more severely and more completely than ever before. The Commission of 1898, basing their experience on the earlier of the recent famines, recognized that the minimum wage might with certain safeguards be dispensed with when famine was not severe, but they considered that its retention was still necessary in times of acute distress. The Commission of 1901, with the further experience of the subsequent famine before them, go still further. Their enquiries show that in the Central Provinces, in Ajmer, in the Punjab, and in parts of Bombay, it was found possible in times of intense famine to administer relief effectually and without risk, in spite of the practical abolition of the minimum wage. They found also overwhelming evidence of its demoralising effect insomuch that in places it had come to be regarded as a form of gratuitous relief; and they give it as their opinion that the minimum wage for able-bodied workers has been the stumbling block of famine administration. The opinions of the Local Governments are unanimous in support of the views of the Commission. The abolition of the minimum wage is considered not only advisable, but necessary, provided the change is carried out in the manner and under the conditions recommended by the Famine Commission in paragraph 80 of their Report. The Government of India, in view of the complete unanimity which prevails in all provinces on this point, and of the facts established by actual experience during the recent famine, accept the recommendations of the Commission, to which effect should be given in the revised Famine Codes which will now be prepared. They consider, however, that the conditions prescribed by the Commission must be strictly complied with before a minimum wage can be safely dispensed with. Of these the two most important are, separate provision for the employment of the weakly, and the strict adaptation of the task to the nature of the work and the powers of the workers. And in order to provide for cases in which these conditions may be temporarily absent, the Codes should lay down that if by reason of delay in the inception of relief measures, of a sudden and unexpected influx of workers, or of insufficiency of staff, it becomes temporarily impossible effectually to secure these two conditions, the Commissioner may direct that a minimum wage be given until the defect can be remedied, his order being immediately reported to the Local Government.

9. The question of the wage scale is discussed in paragraphs 97—124 of the Report. The Government of India accept the fundamental principle, laid down originally in 1883 and referred to by the Commission with approval, that the wage should be the lowest amount sufficient to maintain health under given circumstances. The Commission of 1898 recommended a scale of wage somewhat higher than that previously in force, but all experience in the recent famine has gone to show that their scale was unnecessarily liberal. In every province, it is stated, the scale was reduced in one way or other, and the Commission now recommend a wage scale substantially lower. The Commission are :)o of opinion that the differentiation of male and female wages, which was in force until the Commission of 1898 advised its abandonment, should be reintroduced.

10. It will be convenient to deal with this question of the male and the female wage before stating the conclusions of the Government of India on the general adequacy of the proposed wage scale. The arguments by which the Commission of 1901 support their proposal to reintroduce the differentiation are stated in paragraph 105 of the Report, while the reasons in favour of the abolition of any such distinction are given in paragraph 443 of the Report of the Commission of 1898; and the Government of India have now carefully considered the arguments of both Commissions, in the light of the conclusions drawn from

actual and recent experience by Local Governments and the officers serving under them. Both systems have been tried in recent years, and local experience is therefore entitled to great weight in a matter which closely affects the practical administration of every relief-work.

11. The Governments of the United Provinces and of Bengal support the proposals of the Commission, but everywhere else the weight of opinion is against a return to the system of differentiation. The advantage of having as few distinctions as possible in calculation of wages to be made is admitted on all hands. The most important aspect of this question is its effect on workers in Class II—Carriers, in whose case the Commission recommend a[ ] age of 14 *cnhatáks* for males and 13 for females. The calculation of wages on these separate bases necessarily involves increased labour and additional complication, and the Commission of 1901 propose to avoid this difficulty by a rule that under all circumstances the wage of a woman shall be less by exactly 1 pice than that of a man. It has been pointed out, however, in more than one province that the difference of 1 pice in wages means considerably more, especially when prices are not very high, than the difference of one *chhaták* in the amount of the grain equivalent which the Commission recommend as advisable. As a matter of fact, if the pice rule were adopted, while the male carrier might get in some cases as much as 16 *chhatáks* in place of the 14 recommended as the standard, the female carrier would never get the equivalent of her full 13 *chhatáks*, and she might in certain cases obtain as little as the equivalent of 10. For example, when grain is selling at 13 *sérs* per rupee (and this is a rate which must be taken into consideration), the wage of the female carrier would be three pice only, or the equivalent of 9¾ *chhatáks*. The Government of India accordingly consider it impracticable to adopt the one pice rule proposed by the Commission, while, on the other hand, to calculate the female wage separately on the same system as the male wage would greatly increase the complications to which such serious objections are taken by all who have practical experience of the difficulties of making payments on relief-works.

12. The question of convenience, however, could not be allowed to prevail against the important financial interests concerned, if it stood alone. The real argument against differentiating sexes is that the classification into diggers and carriers broadly answers the same purpose, the former class containing hardly any women, and the latter only lads or feebly-developed men for whom the wage of a healthy woman is sufficient. The Commission state that the distinction of diggers and carriers is imperfect as a sex distinction, but without explaining their reasons. The Government of India consider that on this question the opinion of the Commission of 1898, supported by the great majority of Local Governments, including all those in which in recent years there has been practical experience of serious famine, should prevail, and that the differentiation in the case of carriers should be abolished. And the number of women classed as diggers is so small that it is not worth while preserving the differentiation in their case. Thus no distinction will be made between the wages of male and female workers respectively.

13. The differentiation should, however, be preserved in the case of dependants, of the rest-day wage, and of the gratuitous dole. The difference in the grain equivalents in these cases is as much as 2 *chhatáks*, and of the arguments against differentiation, the only one that applies is simplicity. The financial effect of the differentiation will be very considerable, and in this case effect must be given to the recommendations of the Commission. The rule of one pice less does not apply in these cases, and wage tables must be worked out separately for each sex.

14. The next question is the adequacy of the proposed wage scale, which is contrasted below with the scale advocated by the Commission of 1898:—

	1898.	1901.	
	Chhatáks.	Male. Chhatáks.	Female. Chhatáks.
Diggers	20	18	14
Carriers	15	14	13
Working children (age 8—12) ...	8	10 (age 10—14)	10
Adult dependants, &c. ...	12	12	10
Non-working children over 8 ...	7	8 (10—14)	8
" " under 8 ...	5	6 (7—10)	6
		4 (under 7)	4

It has been conclusively shown in the recent famine that the scale proposed in 1898 was unduly liberal, and in all provinces where relief-works were in operation, reductions were found necessary. The reductions now proposed are, however, considerable, and it has to be borne in mind that at the same time the minimum wage is to be abolished, so that the reduced rates will be liable to a still further reduction if the task is not performed in full.

The Local Governments, with the exception of those of Madras and Burma, are prepared to accept the reduced rates. The objections raised by the Madras Government have chiefly reference to the reduction proposed in the wage of female carriers, which they consider unsafe for adoption in the circumstances of that province. This objection will be removed by the decision already arrived at to pay the female carrier the same wage as the male, and the Government of India see no reason for prescribing a different scale in Madras from that in force elsewhere.

15. The Government of Burma also object to the inadequacy of the scale. The classification of workers, however, in that province is different from that adopted elsewhere, and is more complicated. It is opposed to the recommendations of the Commissions of both 1898 and 1901, and the Government of India consider that it should now be brought into line with the classification which experience has approved as the best in the other provinces in India. When this has been done, the Government of India see no reason to suppose that the scale sanctioned for other provinces will be otherwise than suitable for Burma, and they accordingly direct its adoption. Thus the scale now to be adopted throughout India will be as follows :—

Class.	Wages in Chhataks (1 Chhatak = 2 ounces.) Male.	Female.
Special—Mates and special gangs	One pice more	than class I.
Class I—Diggers	18	18
,, II—Carriers	14	14
,, III—Working children	10	10
,, IV—Adult dependants and rest-day wage	12	10
,, V—Non-working children—		
Over 10, but under 14 years	8	8
Over 7, but under 10 years	6	6
Under 7 years, but not in arms	4	4
Children in arms	One pice mother,	extra to the or 3 *chhataks*.

16. Another point of importance in connection with the wage scale is the recommendation originally made in 1898 that Local Governments should have discretion, for reasons to be recorded in writing, to vary the prescribed scale by fixing as the wage basis a grain-rate differing from actual prices by not more than 25 per cent., and that this discretion might be delegated to Commissioners. The Commission of 1901 recommend that the discretion of the Local Governments in this matter be unlimited, provided that the Government of India is kept duly informed of the action taken. Of course any modification whatever can be made with the sanction of the Government of India ; but there are certain conditions under which it is recognised that it is advisable to increase or reduce the ordinary scale, and it seems unnecessary to require Local Governments to obtain sanction for each such variation. On the other hand, it is of little use to prescribe a scale if Local Governments are free to depart from it at pleasure, and without special reasons, by so much as 25 per cent. ; while it is clear from the correspondence that there is a risk of such a discretion to alter the wage scale being used to bring it into accordance with the standard which individual officers may consider adequate. The Government of India desire, therefore, that in each province the conditions under which alone the discretion may be exercised should be specified in the Famine Codes. For example, the wage should be raised when the physical condition of the people has so deteriorated that a more liberal diet is required ; or possibly when very severe cold (such as sometimes occurs in the depth of the Punjab winter) calls for a large supply of food ; though the wage should not be raised to allow for clothing, as proposed in one province, since that is a matter that should be separately provided for, if at all. So, again, the improvement of communications during the last few decades has tended to produce uniformity of prices over large areas ; and severe local distress may now exist without the price of food-grains approaching, even nearly, to what used to be regarded as famine rates. In such circumstances, the wage scale becomes inadequate in two respects. In the first place, the addition made to the grain equivalent in order to cover the cost of oil, condiments, fuel, and so forth, becomes insufficient, since the prices of these extras do not fluctuate proportionally with the price of grain. An in the second place, the half pice which under the rules is neglected in calculating the money wage may represent a proportion of the total grain allowance which can no longer safely be neglected. In such circum-

stances it may be desirable to increase the wage scale. On the other hand, reduction is necessary in the case of village works, or where it is desired to induce workers to return to their homes at the beginning of the rains. These are instances only; and in revising their Famine Codes Local Governments should specify any other conditions which they propose to enumerate. The discretion should not be delegated except to a specially appointed Famine Commissioner, and then only with the previous sanction of the Government of India.

17. Before leaving the subject of wages, the Government of India consider it desirable to refer briefly to the recommendation of the Commission, in paragraph 91 of their Report, that daily payment on public works should be universally obligatory. This suggestion was not specifically referred for opinion, as the Governor-General in Council was prepared to accept it without discussion. The system has, moreover, been accepted in practice by every Local Government except Madras; and His Excellency believes that wherever it has been introduced, its advantages have been recognised, and the difficulties believed to attend it have disappeared. Daily payment by results necessarily involves daily measurements, and the Governor-General in Council recognises that the difficulty of making these is greater in some parts of India than in the provinces where daily payments were first insisted on. But even if a larger staff is required for the setting out and measuring of tasks, the advantages are such that the additional expense should be incurred, and the Government of India desire that the recommendation of the Commission on this head be now definitely accepted.

18. The fourth question has reference to the use of cooked food as a means of gratuitous relief, the practical point being whether village "kitchens" should be retained in the relief system or not. The Commission (paragraph 139—41 of the Report), while recognising the utility of kitchens attached to relief-works as a provision for dependants, expressed a strong opinion regarding their inferiority as a substitute in other circumstances for the method of administering gratuitous relief by doles. They pointed out that under both methods it was necessary to have recourse to personal selections, so that kitchens had no advantage in providing an automatic test of distress, while they were inferior in their greater costliness, in the difficulty of securing proper sanitary arrangements and the proper cooking of food, and in their effect on the self-respect of the people. The Commission accordingly expressed a strong preference for the administration of gratuitous relief by doles, and pronounced the kitchen system to be, in any case, entirely unsuitable in the rains. The opinions of the Commission are concurred in by the Governments of the United Provinces and of the Punjab, while it is reported that kitchens are not required in Burma. In the opinion of the Government of Bengal, kitchens may properly be used to afford gratuitous relief to children, but not to adults (an opinion shared by many who condemn kitchens generally), and the Government considers them generally useful as tests in the closing stages of famine, though it condemns their use for this purpose in the earlier stages.

19. In none of these provinces, however, have kitchens ever been used to any great extent, and all the other Provincial Governments, many of which have had large experience of their use, are unanimous and emphatic in appreciation of their value, and in dissent from the adverse opinion of the Commission. They also traverse certain of the statements of fact on which that adverse opinion is based, such as the argument of greater costliness and on special liability to fraud. More particularly it is pointed out that kitchens often provide the only effective means of securing sufficient food to children, when (as often happens) there is a tendency to stint them. Further than this, it is alleged that the gratuitous dole paid to weakly adults is often shared by the able-bodied who should be on the works; and that the distribution of relief in the form of cooked food is the only effectual means of ensuring that the relief goes wholly to the person for whom, and is applied wholly to the purpose for which, it is intended. Some of those consulted, moreover, believe that kitchens are not without value as tests of distress in the earlier stages of scarcity; though when these have passed, the necessity for selecting the persons to be relieved is generally admitted.

It is noticeable that every native officer consulted is in favour of the maintenance of the system of distributing relief through kitchens.

20. The value of kitchens as tests of distress depends upon the fear of social isolation which attends a breach of caste rules; and it is obvious that as the number of persons attending them increases the fear of isolation rapidly diminishes, and with it the value of the test. In the last famine, in the tracts where the abuse of kitchens was most conspicuous, the people had become accustomed to their use in the famine of a few years before, and they were thus, at the very commencement, in a position at which a new generation would not arrive until a future famine was well established. It is not to be wondered at, therefore, that the kitchens failed as tests; but under more normal circum-

stances they may, in the opinion of the Government of India, have a substantial value as tests of distress in the first stages of scarcity, when it is uncertain whether real need for relief exists. The Government of India also recognise the great practical advantage which they possess in the readiness with which they can be opened and closed without any elaborate organisation. On the other hand, their use as tests is undoubtedly open to two objections. Where caste feeling is strong they may furnish too severe a test. And in all cases the test is unequal, being more severe amongst the higher than the lower social grades of the poor; though the force of this objection is diminished by the fact that, broadly speaking, it is the latter who first feel distress, and that when the necessity for relief has reached the better class the time for test kitchens has passed. Where the social organisation is such as to give special force to these objections, great caution is necessary in the resort to kitchens as tests of the existence of distress; but as a means of affording gratuitous relief to those unable to work, the Government of India must accept the overwhelming testimony in many provinces in which this form of relief has been tried, in favour of the great value of kitchens when properly managed, especially, but not only, in the case of children. They have therefore decided not altogether to abandon the use of kitchens as a means for the distribution of relief; but they desire to emphasize the necessity for the most careful management in the cooking of the food and in the sanitary arrangements. The selection of those to be relieved must also be as rigid as in the case of the dole, and resort to the kitchens must not, after the earliest stages, be relied on as an automatic test of distress. Two further points of importance are, that the circle served by the kitchen should be moderate in extent, and should not in the rains extend beyond the village in which the kitchen is situated.

21. The preparation of nominal muster rolls is insisted on in paragraph 81 of the Commission's Report as essential in order to secure proper care of weakly persons; and this recommendation is generally accepted except by the Government of Bombay who (differing in this respect from the opinion of the Committee of their Commissioners) doubt whether the rolls are of sufficient importance to justify the trouble involved in their maintenance. All other Governments are in their favour, and their value in the prevention of fraud is indicated in the replies of some of the officers even of the Central Provinces, where the system has not been introduced, and where the weight of opinion is against it. When selection has to be exercised, nominal rolls are obviously indispensable; and so many other advantages attach to their use in the prevention of fraud and the maintenance of discipline that the Government of India have no hesitation in deciding finally on their adoption.

22. The Government of India have already accepted the recommendation of the Famine Commission regarding the appointment of a Famine Commissioner, but there is a general disinclination on the part of the Local Governments consulted to adopt a numerical test, as proposed in draft rule 40 attached to the Circular, to decide the point at which relief operations become of sufficient magnitude to necessitate the appointment. The Governor-General in Council agrees with the opinions expressed, and considers it sufficient to direct that a Famine Commissioner should be appointed whenever a serious famine appears imminent or extensive relief measures are undertaken. The procedure proposed in draft rule 35 for increasing the security that money disbursed on village relief reaches those for whom it is intended, is approved by most Local Governments, and the Government of India strongly recommend its adoption in future.

35. The name of each recipient should be recorded on admission in a register providing for the entry of all sums paid to him from time to time, and a copy of the register should be kept in the village so as to be at hand for examination by inspecting officers. As a further check on payments, each recipient should be given a ticket on which all payments made to him should be entered as disbursed.

23. The Governor-General in Council takes this opportunity of drawing attention to the recommendations of the Commission in paragraphs 72 and 123 of the Report, which were not specially dealt with in their original Resolution. With these recommendations the Government of India are in entire agreement, and they desire to emphasize the necessity for having a single officer in responsible charge in each relief work, and for abandoning the system of dual control which has in some cases been adopted. The fixation of the price basis on which wages are calculated is a matter of much importance, which cannot be left to the discretion of the officer in charge of each separate work and the Government of India accept the suggestion that in future the basis should be fixed by the Commissioner (or in Madras by the Collector) for every district or for every large area in a district where peculiar local conditions exist. Provision should be made in the revised Famine Code to give effect to the Commission's recommendations on these points.

24. The provision of a Manual of practical instructions to supplement the more detailed and technical instructions of the Famine Codes is agreed to by almost all Governments, but their opinions show that it will be difficult, if not impossible, to prepare a

single handbook for the whole of India. Even in the case of Civil officers under ordinary circumstances, and always in the case of the Staff Corps officers who render such invaluable assistance, famine operations when started on a large scale must necessarily be placed under the supervision of officers who have had no previous acquaintance with the subject of famine relief, and who have scant leisure to master the intricate and detailed provisions of the Famine Codes. The Governor-General in Council considers it therefore of great importance that a compact handbook should be prepared in each province, setting out the guiding principles of famine administration. The Manual must necessarily be brief, and in a form that is easily intelligible to officers without previous experience of civil administrative work. It should indicate the methods in which the existence of distress is ascertained, and the signs that are recognised as pointing to scarcity on a scale sufficient to necessitate the provision of relief by the Government. The different forms in which relief is administered should be described, and information should be given as to the circumstances to which each system is best adapted, and the safeguards and precautions that should be applied in its practical administration. A brief account should be given of the organisation best adapted for each class of relief, more particularly in its preliminary stage, so that the officers appointed may understand how to set about their work, and how to enforce the arrangements essential to secure discipline and regularity amongst the large bodies of people applying for relief.

Some practical hints as to the steps which officers should take to regularise and check the work and the payment of those on relief, will be found in the Report of the Famine Accounts Committee. The preparation of the Manual should, in the opinion of the Governor-General in Council, be entrusted in each province to an officer who has had practical experience in the administration of relief, as such an officer will best understand the difficulties that beset the new-comer. The Manual should not profess to be in any way a complete and final authority on the matters dealt with. It should be merely a compendium of general principles, illustrated by practical examples and accompanied by hints as to the most effective manner of carrying out the instructions of the Famine Code, to the sections of which reference should be made, so that the officers employed may, as time permits, and as their familiarity with the system increases, be able to refer to the authoritative provisions of the Code. The Government of India trust that before the next famine arises each Local Government will be able to place in the hands of the officers who assist in the administration a brief and simple Manual of the description now suggested; and they will be glad if, before their final issue, these handbooks are submitted to them for approval.

25. The revision of the Provincial Famine Codes, so as to give effect to the recommendations made by the Famine Commission of 1901 and by the Famine Accounts Committee subsequently appointed, will necessarily be a work of some difficulty, and will require some time. It may possibly be found advisable in each province to appoint a small committee to undertake the work. In the United Provinces the Provincial Code has already been revised in accordance with the recommendations of the Commission. While fully recognising that local conditions must be allowed for in the Codes of different provinces, the Government of India think that uniformity in arrangement, in the statement of general principles, and in the working out of details so far as this is possible, is not without advantages, if only as simplifying the work of officers who in times of severe famine are necessarily deputed from one province to another. The Revised Code of the United Provinces has not yet received the final approval of the Government of India, and in some respects its provisions will require modification in order to adapt them to the orders contained in this Resolution, but regarding the principles upon which the greater portion of its provisions are based there is no difference of opinion, and the Government of India would suggest that it might be referred to with advantage by the Governments of other provinces when revising their own Codes. It is hoped that no time will be lost in completing the revision required in each province and in forwarding the revised Codes for the approval of the Government of India.

ORDERED, that the Resolution be communicated to all Local Governments and Administrations and the several Departments of the Government of India, and that it be published in the Supplement to the *Gazette of India.*

J. O. MILLER,

Secretary to the Government of India.

Punjab Government Press, Lahore—2-4-03—680.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, APRIL 9, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED APRIL 4, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Calcutta, the 26th March 1903.

No. 1437.—Under the provisions of Section 9 of the Statute 24 and 25 Vict., Cap. 67, the Governor-General in Council is pleased to direct that His Excellency's Council shall assemble at Simla in the jurisdiction of the Lieutenant-Governor of the Punjab.

H. H. RISLEY,

Offg. Secretary to the Government of India.

ESTABLISHMENTS.

Simla, the 27th March 1903.

No. 2-S.—The Hon'ble Mr. R. L. Harris is permitted to resign His Majesty's Indian Civil Service with effect from the 1st April 1903, or the subsequent date on which he may sail from India or relinquish charge of office in the event of his not taking subsidiary leave.

R. NATHAN,

for ***Offg. Secretary to the Government of India.***

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

SEPARATE REVENUE.

POST OFFICE.

Simla, the 3rd April 1903.

No. 1816-*S.R.*—In exercise of the power conferred by Section 2 (*b*) of the Indian Post Office Act, 1898 (VI of 1898), as amended by the Indian Post Office (Amendment) Act, 1903 (II of 1903), the Governor-General in Council is pleased to declare that, with effect from the 1st June 1903, the expression "Inland" shall not apply to non-official letters, postcards or newspapers, or non-official book, pattern or sample packets, when—

(*a*) posted in British India and addressed to any of the undermentioned places for which post offices have been established by the Governor-General in Council beyond the limits of British India, namely—

(1) Bagdad. (4) Bushire.
(2) Bandar-Abas. (5) Jask.
(3) Busrah. (6) Linga.
(7) Mohammerah, or

(*b*) posted at any of the post offices established by the Governor-General in Council at those places and addressed to any other of those places or to any place in British India.

E. N. BAKER,
Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 3rd April 1903.

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

North-Western Railway Volunteer Rifles.

No. 296. —Second-Lieutenant Henry Humfress resigns his commission with effect from the 2nd March 1903.

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

Punjab Government Press, Lahore—9-4-03—620.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, APRIL 16, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED APRIL 11, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Simla, the 9th April, 1903.

No. 1503.—In accordance with the provisions of section 18 of the Indian Explosives Act, 1884 (IV of 1884), and with the directions contained in the Notification of the Government of India in the Home Department, No. 1964, dated the 2nd September 1887, the Governor-General in Council is pleased to publish, for the information of persons likely to be affected thereby, the following draft of an amendment which it is proposed to make in the rules to regulate the transport and importation of explosives, published with the like Notification No. 5528, dated the 11th October 1901.

The draft will be taken into consideration on or after the 1st June 1903.

Draft amendment.

For sub-rule XVIII of rule 6 the following shall be substituted, namely :

"XVIII. Wagons containing explosives shall be placed at the end of the train away from the locomotive, and shall be close-coupled to one another as well as to the adjoining wagons, and shall be preceded and followed by three wagons not loaded with explosives or other traffic of an inflammable nature ;

Provided as follows :

(*a*) on the Darjeeling-Himalayan Railway wagons containing explosives and adjoining wagons need not be close-coupled to one another ; and

(*b*) on the Nilgiri Railway only one wagon need intervene between the locomotive and wagons containing explosives."

JAILS.

The 4th April, 1903.

No. 265.—The services of Major R. J. Macnamara, M.D., I.M.S. (Bengal), Superintendent, Central Jail, Mooltan, are placed temporarily at the disposal of the Government of Bengal for employment in the Jail Department.

The 8th April, 1903.

No. 271.—The services of Major W. B. Lane, I.M.S. (Bengal), Superintendent of the Central Jail, Montgomery, are placed at the disposal of the Chief Commissioner, Central Provinces, for employment in the Jail Department.

H. H. RISLEY,

Offg. Secretary to the Government of India.

Punjab Government Press, Lahore—16-4-03—620.

Government Gazette

PUNJAB AND IT'S DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, APRIL 23, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED APRIL 18, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

MEDICAL.

Simla, the 16th April, 1903.

No. 396.—Major J. C. Lamont, M.B., I.M.S. (Bengal), Professor of Anatomy, Lahore Medical College, is granted special leave out of India on urgent private affairs for six months, under Article 316 of the Civil Service Regulations, with effect from the 10th April 1903.

No. 397.—Lieutenant G. E. Charles, M.B., I.M.S., is appointed to officiate as Professor of Anatomy, Lahore Medical College, during the absence on special leave on urgent private affairs of Major J. C. Lamont, M.B., I.M.S. (Bengal), or until further orders.

JUDICIAL.

The 16th April, 1903.

No. 627.—In accordance with the provisions of sub-section (4) of section 18 of the Indian Factories Act, 1881 (XV of 1881) (as amended by Act XI of 1891), the Governor General in Council is pleased to publish for general information the following draft of a rule which His Excellency in Council proposes to make in exercise of the powers conferred by sub-section (2) of the said section 18, and in supersession of the rule published in the Home Department Notification No. 428, dated the 25th March 1892. The draft will be taken into consideration by the Governor General in Council on the expiration of two months from the date of publication of this Notification in the *Gazette of India* :

Every occupier of a Factory shall furnish to the Magistrate of the district or, if the factory is situate within the limits of a Presidency town, to the Special Inspector of Fac-

tories or other officer designated in this behalf by the Local Government, the undermentioned returns :

I.—On or before the 15th January of each year, an annual return in the following form :

Name and situation of factory.	Name of owner or occupier.	Name of Manager.	Name of industry.	Nature and amount of moving power.	AVERAGE DAILY NUMBER OF OPERATIVES EMPLOYED.				Whether the factory is worked by shifts or stoppages and, in the latter case, the hour and extent of daily stoppage.	Whether there is a general holiday on Sunday or on varying week days, or whether the factory has been exempted from the rules as to Sunday labour under section 5-B (1), clause (c), of the Act.	REMARKS.
					Adults.		Children.				
					Male.	Female.	Male.	Female.			

N.B.—The average daily number of children is to be taken from the Register of children kept in the factory.

II.—A return, in the following form, regarding measurements and space :

Name and situation of factory.	Name of occupier.	Measurements and cubical contents of each room in the factory.	Area of the floor-space of any room shown in the preceding column occupied by machinery or other fixtures.	REMARKS.

This return shall be submitted for every factory when it is first registered under the Act, and thereafter, whenever any alteration is made in the factory which affects the measurements and cubical contents of any room or the area of the floor-space in any room occupied by machinery or other fixtures.

III.—Before the end of each calendar month, a return giving notice of all the days on which the factory will be closed during the ensuing month. This return must [illegible] submitted whether the factory is or is not working during the calendar month preceding the one to which the return relates.

H. H. RISLEY,

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 17th April, 1903.

PROMOTIONS.

INDIAN SUBORDINATE MEDICAL DEPARTMENT.

ASSISTANT SURGEON BRANCH.

Bengal Establishment.

No. 336.—The undermentioned second class Assistant Surgeons having completed seven years' service in that class, to be first class Assistant Surgeons, with effect from the 31st January 1903:

* * * * * * * *

Robert James Owen.

* * * * * * * *

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

2nd Punjab (Simla) Volunteer Rifle Corps.

No. 353.—Lieutenant-Colonel Charles Pardey Lukis, Indian Medical Service, Medical Officer, resigns his commission, with effect from the 9th March 1903.

E. G. BARROW, *Major-General*,

Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 16th April, 1903.

No. 135.—With reference to Public Works Department Notification No. 374, dated the 18th October 1902, the services of Lala Baijnath, Assistant Engineer, 2nd Grade, are replaced at the disposal of the Government of the Punjab, with effect from the afternoon of the 3rd February 1903.

SIDNEY PRESTON,

Secretary to the Government of India.

Punjab Government Press, Lahore—23-4-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, APRIL 30, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED APRIL 25, 1903.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATIONS.

SEPARATE REVENUE.

SALT.

Simla, the 20th April, 1903.

No. 2112-*S. R.*—In exercise of the power conferred by section 7, clause (*b*), of the Indian Salt Act, 1882 (XII of 1882), and in supersession of the Notification of the Government of India in the Department of Finance and Commerce, No. 1724, dated the 21st April 1893, the Governor-General in Council is pleased to remit the duty imposed by Notification No. 1542, dated the 18th March 1903, on salt manufactured in, or imported by land into, British India, in cases in which any such salt is issued, in accordance with rules made with the previous sanction of the Governor-General in Council, for use in any process of manufacture.

No. 2114-*S. R.*—In exercise of the power conferred by section 23 of the Sea Customs Act, 1878 (VIII of 1878), and in supersession of the Notification of the Government of India in the Department of Revenue, Agriculture and Commerce, No. 150, dated the 12th July 1877, the Governor-General in Council is pleased to exempt from customs duty salt imported into British India and issued, in accordance with rules made with the previous sanction of the Governor-General in Council, for use in any process of manufacture.

The 24th April 1903.

No. 2219-*S. R.*—In exercise of the powers conferred by section 7 of the Indian Salt Act, 1882 (XII of 1882), the Governor-General in Council is pleased to direct that the following clause be substituted for clause (*b*) of the first paragraph of the Notification in the Finance and Commerce Department, No. 1542-S. R., dated the 18th March 1903, namely.

"(*b*) in the case of salt manufactured in the mines in the Kohat District noted in the margin one rupee eight annas for each such maund."

Jatta, Malgin, Karak, Bahadur Khel.

E. N. BAKER,

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 24th April, 1903.

PROMOTIONS.

No. 371.—The following promotions are made, subject to His Majesty's approval:—

* * * * * * * *

INLIAN CIVIL VETERINARY DEPARTMENT.

Veterinary-Captain to be Veterinary Majors.

20th March 1902.

* * * * * * * *

Henry Thomas Pease.

* * * * * * * *

Veterinary-Lieutenants to be Veterinary-Captains.

20th March 1903.

* * * * * * * *

Alfred Smith.

* * * * * * * *

George Kemp Walker.

* * * * * * * *

4th March 1903.

William Orford Charles Dawson.

* * * * * * * *

VOLUNTEER CORPS.

APPOINTMENT AND RESIGNATION.

2nd Punjab (Simla) Volunteer Rifle Corps.

No. 382.—Lieutenant-Colonel Claude deCourcy Hamilton, Royal Artillery, to be Commandant, with effect from the 1st March 1903, *vice* Priestley, transferred to the supernumerary list.

North-Western Railway Volunteer Corps.

No. 383.—John Alexander Gregson, Gentleman, to be Second-Lieutenant, with effect from the 26th of March 1903, *vice* Humfress, resigned.

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

FROM THE SUPPLEMENT TO THE "GAZETTE OF INDIA," DATED APRIL 25, 1903.

Circular No. 5-F.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

FORESTS.

Simla, the 20th April 1903.

REGULATIONS FOR THE FOREST SERVICE BRANCH OF THE ROYAL INDIAN ENGINEERING COLLEGE, COOPER'S HILL, FOR 1903.

(Postal and Telegraph address, Englefield Green. Railway Station, Egham L. and S. W. Railway.)

[*The arrangements hereinafter described are subject to revision under the orders of the Secretary of State for India.*]

1. The examination for admission to the Indian Forest Service through the Royal Indian Engineering College, which will be conducted by the Civil Service Commissioners, will be simultaneous with, and in the same subjects and papers as, the examination for the Indian Police Department* (which is usually held in June), except that for the Forest Department "German" is obligatory, and Botany is added to the Class I subjects, and "Chemistry and Heat" are included in Class I instead of Class II.

Candidates may undergo the written part of their examination in London, Edinburgh or Dublin, or at any of the provincial centres at which the simultaneous examination of candidates for admission to the Royal Military College, Sandhurst, is to be held. A list of the probable centres may be obtained from the Civil Service Commissioners at any time after January 1903. The oral and practical parts of the examination will be held in London only.

A fee of £2 is required from candidates examined in London, but when the written examination is conducted elsewhere than in London the fee is £3. Candidates examined at a college or school will probably be required to pay a local fee in addition to the fee of £3 (in order to defray the expenses of superintendence), as to which they should obtain early information from the college or school authorities. The fee payable to the Civil Service Commissioners must be paid by means of stamps of the specified amount. Instructions on this point will be issued to candidates about 10 days before the examination.

2. The number of candidates to be selected annually varies according to the requirements of the Forest Service in India; the figures as regards each particular year will be advertised from time to time. *In 1903 there will be seven appointments offered for competition.*

3. Candidates for the Indian Forest Department are selected under the following arrangements :—

(1) An applicant must be a natural-born British subject, and must be above 17 and under 20 years of age† on the 1st June of the year in which he competes for an appointment. He must be unmarried, and if he marries before reaching India he will forfeit his appointment.

(2) An applicant must send‡ to the Judicial and Public Department of the India Office, on or before the 1st day of May of the year in which he proposes to compete :—

(*a*) His name, parentage and home address, a certificate or other satisfactory evidence of the date of his birth, and the written consent of parent or guardian that his name should be recorded as a candidate.

(*b*) If his parent or guardian resides abroad, he must furnish an undertaking signed by a representative of such parent or guardian in this country who, in the event of the candidate's admission to the Royal Indian Engineering College, will be responsible that the College bills and fees

*Candidates may, if qualified, enter for both the Police and the Forest Department. Only *one* fee in such case need be paid.

†The limit of age prescribed for candidates for admission to the Indian Police and Forest Services by competitive examination in this country is extended in the case of those who have performed military service in South Africa by the period of such service, not exceeding eighteen months. Candidates who become eligible under this concession must furnish an official certificate of the length and nature of their service.

‡There is no form of application; the documents specified in paragraph 3 (2), Clauses (*a*) and (*b*), should be enclosed in a covering letter addressed to the Secretary, Judicial and Public Department, India Office, London.

are punctually paid, will receive and act on all reports sent from the College, and will see that the health certificates are duly forwarded to the College at the end of each vacation.

(c) A statement of the places of education at which he may have been, accompanied by testimonials of good conduct, during the last four years.

(3) Applicants will have to appear before a Medical Board* at the India Office, particular stress being laid upon good vision† and hearing. A physical test will also be imposed, so as to ensure the selection of persons of active habits and powers of endurance.

(4) Applicants who have passed the medical examination and the physical test will be permitted to undergo an examination before the Civil Service Commissioners in the following subjects‡ (Classes I and II), marks being assigned as follows :—

CLASS I.§

	Marks.
Mathematics I (including Arithmetic)	3,000
German ‖ (300 for colloquial)	2,000
Botany	2,000
Chemistry and Heat	2,000
English Composition	1,000
Geometrical Drawing	500
Freehand Drawing	500
Geography	500

CLASS II.

Mathematics II	2,000
Latin	2,000
French	2,000
Greek	2,000
English History	2,000
Physics	2,000
Physiography and Geology	2,000

Candidates must obtain such an aggregate of marks in the examination as a whole as may indicate in the judgment of the Civil Service Commissioners a competent amount of general proficiency.

(5) The Secretary of State will nominate as probationers such competitors as attain the highest aggregate of marks (provided they obtain the aggregate referred to above and satisfy the requisite conditions in other respects). These probationers will then enter the College, where they will be further trained for the Forest Service in India.

(6) If the full number of competent probationers required in any year cannot be obtained from the persons so examined, the Secretary of State reserves a discretion to fill up the deficiency by selecting any other person or persons whom, after consulting the authorities of the College, he may consider properly qualified to become probationers for the Forest Service.

*It is suggested that a candidate, before commencing any special course of study, should undergo a thorough medical examination. By such an examination any *serious* physical disqualification would probably be revealed, and the candidate might thus be spared the expense and waste of time involved in a course of preparation for a service for which he is physically unfit.

Candidates for the Forest service may, if they wish it, undergo a preliminary examination by the Medical Board at the India Office, not more than two years before they are qualified to compete, under the following conditions :—

(a) Applications must be addressed to the Under-Secretary of State, India Office, Whitehall, London, accompanied by a fee of two guineas and by a statement of the candidate's age.

(b) Candidates must pay their travelling expenses.

(c) Candidates considered to be unfit by the Medical Board at this preliminary examination are not bound to accept its opinion, but may, *at their own risk*, continue their studies, with the knowledge that they will have to submit themselves for a final medical examination by the Medical Board, shortly before the literary examination at which they wish to compete.

(d) On the other hand, it must be distinctly understood that the preliminary examination by the Medical Board is held solely for the candidate's information, and that, if after that examination he is reported to be apparently fit, he has not on that account any claim to be accepted as physically fit when he presents himself for the final Medical Examination, upon which alone his acceptance or rejection will depend. Candidates may be considered fit for the Service at the preliminary examination, but may be found at the final examination to be unfit, either on account of some physical defect which did not exist or passed undetected at the preliminary examination, or for other reasons.

†On the subject of the standard of eyesight required for the Indian services, a pamphlet can be obtained on application to the Secretary, Judicial and Public Department, India Office.

‡Reprints of the papers set at previous examinations, together with tables of the marks assigned to the candidates, are published by the Civil Service Commissioners, and can be obtained through any bookseller from the following Agents :—EYRE & SPOTTISWOODE, East Harding Street, Fleet Street, London, E. C. ; OLIVER & BOYD, Edinburgh ; and E. PONSONBY, 116, Grafton Street, Dublin. The price is one shilling.

§All the subjects of Class I may be taken up. Only two of the subjects of Class II may be taken up.

‖Candidates must qualify in German.

4. The course of study for candidates for the Indian Forest Service extends over about three years. For six terms the candidates will prosecute their studies at the College, and during the period of foreign study, which will occupy the remainder of the course, they will visit, under suitable supervision, such Continental forests as may be selected for the purpose. Excursions may also be made for purposes of instruction, both during term time and during part of the vacations.

5. Each annual session begins in September, and is divided into three terms, with vacations of about four weeks at Christmas, two weeks at Easter,* and eight weeks in the summer.

6. A charge of £ 61 is made for each of the six terms spent at the College; for the period of foreign study the charge is £ 70 for each of the three terms; the amounts must be paid terminally in advance to the Bank of England. Receivable orders, with full directions as to the mode of payment, will be forwarded from the India Office to the parents or guardians shortly before the fees fall due. A student will not be allowed to come into residence or to start for or continue his study of foreign forests until his fee for the term has been paid.

7. A deposit of £ 5 is required to be paid by each student on admission to the College as caution money, to cover charges incurred by him for damage to books, instruments, etc., or any College bills outstanding on leaving the College. Any balance over and above such charges will be repaid. This deposit is to be paid with the fee for the first term, making the total payment on that occasion £ 66.

8. The foregoing payments cover all charges for tuition, board according to the College tariff, lodging, with washing up to a cost of 2*s*. a week, and ordinary medical attendance while in residence at the College. When students are on tour, and during the course of practical instruction, whether in Great Britain or on the Continent, the Secretary of State will defray the expenses of (1) board, lodging, and washing (the aggregate maximum expenditure under these heads being 10*s*. per diem); (2) travelling expenses; and (3) fees to local Forest officers, etc.

Students are required to provide their own class books and drawing instruments. Drawing paper, drawing boards, and surveying instruments are provided by the College.

9. The prescribed course of study comprises the following subjects :—

I.—Auxiliary Subjects.

1. Geometrical Drawing.	7. Physics.
2. Freehand Drawing.	8. Chemistry.
3. Surveying.	9. Geology and Mineralogy.
4. Forest Engineering.	10. Entomology.
5. Accounts.	11. Botany.
6. German.	12. Drill and Gymnastics.

II.—Forestry, Theoretical and Practical, in all its branches.

10. Every student is required to conform to the College rules, to exhibit due diligence in his studies throughout the course, and to give evidence of satisfactory progress in such manner as may be required, failing which, or in the event of serious misconduct, he will be liable to be removed from the College, or to be sent back from the foreign study, which may entail the loss of his appointment.

11. During the course of study the proficiency of the students is tested by periodical examinations, and on the termination of their studies there is a final examination. Each student may also, at the discretion of the Secretary of State for India, be required from time to time to appear before the Medical Board, and should the result be unsatisfactory he cannot claim to be allowed to complete the course.

12. The subjects enumerated in paragraph 9 are grouped in certain main branches of study† and a fixed minimum of qualification is required—(1) in each separate subject taught at the College and during forest tours; (2) in each separate branch; and (3) in all branches taken together. Students who obtain these minima will receive the College diploma in Forestry.

* While in actual residence at the College. During the third year, spent in study on the Continent, only one week is allowed at Easter.

† For details *see* Royal Indian Engineering College Calendar.

13. Candidates who have obtained this diploma and are found to be of sound constitution and free from physical defects which would render them unsuitable for employment in the Forest Department (the final decision on which points will rest with the Secretary of State for India), will be appointed Assistant Conservators in the Forest Department of India in the order of their standing at the end of the final examination. They will be allowed before leaving the College to state their preference in respect to the Provinces to which they desire to be allotted; but the distribution will be made to the several Provinces according to the needs of the public service, at the discretion of the Secretary of State for India after consulting the President of the College. Officers are, however, at all times liable to be transferred from one Province to another at the pleasure of the Government of India.

14. Within a month of his nomination as Assistant Conservator, each nominee must sign articles of agreement describing the terms and conditions of his appointment; he must embark for India when required to do so by the Secretary of State, and will be provided with a free passage. Failure to embark at the stated time will, in the absence of satisfactory explanation, lead to forfeiture of appointment.

15. The pay of an Assistant Conservator of Forests will begin from the date of reporting arrival in India. Probationers who acquit themselves creditably during their course at Cooper's Hill College will begin on a salary of Rs. 350 a month. It will, however, rest with the President of the College to decide whether any of the probationers, though they have obtained the College diploma in Forestry, have failed to deserve that rate of initial salary. Such probationers, if any, will begin on a salary of Rs. 250 a month; and this difference of salary will continue until the first departmental examination is passed in India. Officers entering the Forest Service will be required to contribute a subscription ranging from a compulsory minimum of 5 per cent. up to a voluntary maximum of 10 per cent. of their salary to the Forest Officers' Provident Fund. Such contributions, with compound interest, will accumulate till the date of retirement, when the total sum will be paid to the contributor, or, in the event of death before retirement, to his legal representative.

16. Promotion, leave, and pension will be governed by the regulations laid down by the Government of India and made applicable to Forest officers, such regulations being subject to any modifications or alterations which may be made in them from time to time by the Government of India, and their interpretation in case of any doubt arising being left to that Government. The pension rules applicable to Public Works and Telegraph officers appointed from Cooper's Hill College have been extended to Forest officers appointed from England; and the Inspector-General of Forests and Conservators of the 1st grade are now eligible for the extra pension of Rs 1,000 per annum admissible to an officer after at least three years of approved service as a head of a department in any province, if considered deserving of the special concession. A copy of the Regulations relative to these matters can be seen on application either at the Library or the Record Department of the India Office; the principal rules are contained in the Abstract of the Civil Service Regulations, as given in the "India List and India Office List," published by Messrs. Harrison and Sons, 59, Pall Mall, London, which can be procured through any bookseller.

17. Every candidate, before proceeding to India, is required to furnish to the President of the College satisfactory evidence of his conpetency in riding. It is desirable that this evidence should be forthcoming before the candidate proceeds to the Continent for his final year of study.

GENERAL RULES.

18. Chemical, physical, and botanical laboratories, a forestry museum, a forest nursery, a library, and gymnasium are attached to the College. Means are also provided for the practice of photography. Students making use of the laboratories are supplied with the needful apparatus.

19. Each student residing in the College is provided with a separate room, and with fuel and light, also with the necessary attendance. Furniture and bedding are supplied by the College, but students are required to provide their own towels and bed linen. Meals are taken in Hall. Wine and beer are not included in the ordinary fare, but can be obtained from the College cellar at fixed prices.

STUDENTS NOT NOMINATED FOR THE INDIAN FOREST SERVICE.

20. Students not nominated for the Indian Forest Service may be received into the College, as far as the available accommodation permits. Such students may pass through the course of instruction prescribed for the nominees of the Indian Forest Service, as detailed above, or they may be permitted to participate in the instruction given in certain subjects only. On attaining the prescribed minima of marks in the several subjects of study and in totals as laid down above, they will receive, as the case may require, either the College diploma in Forestry on special certificates showing in what subjects they have followed the instruction, and with what result. No student who was not under the age of 20 on the 1st June in the year in which he entered the College will be permitted to compete for any scholarship or prize.

21. Candidates who desire to be admitted under paragraph 20 may submit the necessary application at any time, but not later than the 15th day of June of the year named for admission, except with the special permission of the President. The application must be made on the prescribed forms, which can be obtained from the Secretary of the College.

22. Candidates whose applications are found satisfactory as to character and in other respects will be required to give satisfactory proof that they are qualified to follow the course of instruction with advantage (or certain parts of it, as the case may be). Candidates who fail in this will not be admitted to the College.

23. Candidates admitted to the College under paragraph 20, who propose to pass through the full prescribed course of study, will be required to pay the same fees in every respect as those paid by the nominees for the Indian Forest Service. Candidates who do not become resident, and are admitted only to certain subjects of study, will be required to pay the fees which may be fixed in each special case in consideration of the extent of their studies. The candidates of both classes will be required to abide by the general rules of the College.

FOREST ENTRANCE EXAMINATION.

SYLLABUS.

Mathematics I.—Arithmetic; Algebra up to and including the Binomial Theorem; the theory and use of logarithms; Euclid, Books I to IV and VI; Plane Trigonometry; up to and including solution of triangles; Mensuration.

Mathematics II.—Further questions on the Syllabus of Mathematics I; Elementary Solid Geometry, including Euclid, Book XI, propositions 1 to 21; Euclid, Book XII, propositions 1 and 2; Geometrical Conic Sections, the elementary properties common to the ellipse, parabola and hyperbola; Dynamics and Statics, uniform and uniformly accelerated rectilinear motion, uniform circular motion, motion of projectiles (not requiring a knowledge of the parabola), equilibrium of forces in one plane and of parallel forces, the centre of mass, and the construction and use of the simpler machines.

Latin.—Passages selected from the authors usually read in schools will be set for translation into English. Passages from English authors will be given for translation into Latin prose and verse, but candidates will be allowed, in the place of verse composition, to answer questions of a simple character, which will test whether they possess a fundamental knowledge of the grammar of the language, and such an elementary acquaintance with Roman History as is required for the intelligent study of the books they have read.

Greek.—Passages will be set for translation into English from the authors usually read in schools, and in other respects the Examination will proceed on the same lines as in Latin.

French.—Translation of unseen passages from French into English, and from English into French. The passages for translation will be taken, mainly, from standard authors, and a few simple questions may be asked on the passages set, as to the structure and character of the language and allusions of obvious and general interest. The *vivâ voce* Examination will include Dictation. Three hundred marks will be allotted to colloquial knowledge of the language.

German.—The passages for translation will be taken mainly from standard authors, and in other respects the Examination will proceed on the same lines as in French.

English Composition.—Candidates will be tested by précis-writing as well as by an Essay. The standard of positive merit will be looked for in logical arrangement of thought, and in accuracy and propriety of expression, but large deductions of marks will be made or faults of writing and spelling.

(Candidates are also warned that for similar faults in the use of the English language, similar deductions will be made from the marks obtained in other subjects.)

Geometrical Drawing.—Practical plane geometry; the construction of scales; and the elements of solid geometry, and of simple orthographic projection. Great importance will be attached to neatness and exactness of drawing.

Geography.—Simple questions in descriptive and general geography.

English History.—The General Paper in this subject will be confined to events subsequent to the Norman Conquest. It will test whether the candidates are accurately acquainted with the facts of English History, and also possess an intelligent knowledge of he meaning of the facts.

The paper on the special period will be confined to distinctly modern history. It will require from the candidates more minute knowledge than the General Paper.

The Special Period will be for 1903:—From 1783 to 1837.

Natural Science Subjects.—The standard of Examination in these subjects will be such as may be reasonably expected from the education given at schools possessing appliances for practical instruction, such as a laboratory, etc. A considerable portion of the marks will be given for proficiency shown in the practical part of the Examination. A knowledge of the metric system will be expected.

Chemistry.—The laws of chemical combination and decomposition, and the preparation, classification, and properties of the principal metallic and non-metallic elements, and of such of their compounds as are treated of in inorganic chemistry. In the practical part of the examination only the more ordinary apparatus and the less dangerous reagents will be supplied, and no candidate will be allowed to bring his own apparatus or reagents.

Heat.—The elementary portion of the subject.

Physics.—The elementary properties of electricity, magnetism, light, and sound.

Physiography, i.e., Physical geography.

Geology.—Chiefly economic, including the recognition of the more familiar minerals and rocks, and their properties and uses.

Botany.—The elementry parts of vegetable morphology, histology and physiology, and the principles of a natural system of classification as illustrated by the more important British natural orders. Candidates will be required to describe plants in technical language.

(Questions will not be set on vegetable palæontology, or on the geographical distribution of plants.)

ORDERED that a copy of the foreigoing Regulations be forwarded, for information, to the Governments of Madras and Bombay, the Local Governments and Administrations noted in the margin, the Inspector-General of Forests, and the Comptroller and Audit General. Also that the Regulations be published in the *Supplement to the Gazette of India.*

Bengal.	Coorg.
United Provinces.	Ajmer.
Punjab.	Andamans.
Burma.	Baluchistan.
Central Provinces.	Hyderabad.
Assam.	N.-W. Frontier Province.

J. O. MILLER,

Secretary to the Government of India.

No. 16—5-7.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

COMMERCIAL EXHIBITIONS.

Simla, the 24th April 1903.

RESOLUTION.

THE accompanying Report of the Judging Committee which was appointed for the award of prizes, medals and certificates at the Exhibition of Indian Art Manufactures at Delhi, together with the list of exhibits for which awards were given, is published for general information. The Governor-General in Council is pleased to approve the recommendations of the Committee in regard to the grant of medals and money prizes, and the funds required to give effect to their proposals will be placed at the disposal of the Director.

Revenue Department Resolution No. 50—32-6, dated the 12th December 1902.

2. The proposals of the Committee in regard to the publication of reproductions of exhibits in the Loan Collection are under consideration.

3. His Excellency in Council desires to recognize the labour involved in the work of adjudging the awards, and to thank the President and Members of the Committee for their valuable assistance so ungrudgingly given.

The Secretary to the Government of Madras.
" " " " Bombay.
" " " " Bengal.
" " " " the United Provinces.
" Revenue and Financial Secretary to the Government of the Punjab.
" Revenue Secretary to the Government of Burma.
" Honourable the Chief Commissioner, Central Provinces.
" " " " Assam.
" Chief Commissioner, Coorg.
" " " Ajmer.
" Honourable the Resident at Hyderabad.
" " " Agent to the Governor-General and Chief Commissioner, North-West Frontier Province.

ORDERED that the Resolution with the report referred to, be published in the *Gazette of India* for general information, and that copies be forwarded to the Local Governments and Administrations marginally noted, to the Assistant Director, Indian Art Exhibition, Delhi, and to all the members of the Judging Committee, for information.

ORDERED, also, that copies be forwarded to the Finance Department for information.

J. O. MILLER,

Secretary to the Government of India.

REPORT OF THE JUDGING COMMITTEE APPOINTED TO AWARD PRIZES, MEDALS AND CERTIFICATES AT THE INDIAN ART EXHIBITION, DELHI.

THE Judging Committee which was appointed under the orders of the Government of India for the award of the prizes, medals and certificates to be presented to successful exhibitors and craftsmen at the Exhibition of Indian Art Manufactures at Delhi, assembled on December 22nd. As the time at the disposal of the Committee was brief, while the number of exhibits in several of the divisions was very large, it was found necessary to appoint Sub Committees to undertake the preliminary examination of the specimens and to submit for the judgment of the General Committee those articles in each class and division which appeared to be deserving of consideration. The final awards were in every case made by the Committee as a whole.

2. The ordinary medals which have been awarded are of two classes, silver and bronze. Those articles in each division which most nearly approached the standard attained by the exhibits to which medals were awarded, were classed as "Commended." In a few of the divisions the artistic standard of none of the exhibits was considered sufficiently high to justify any award. Altogether 83 silver medals and 115 bronze medals were awarded; 110 exhibits were commended. It is the intention of the Committee that each medal should be accompanied by a certificate stating the nature of the award and the article for which it is given. The exhibitors of the articles which have been classed as "Commended" should receive certificates only. The Committee consider that the certificates may suitably be signed jointly by the Director of the Exhibition and the Secretary to the Judging Committee. In addition to the ordinary medals the Committee have awarded 19 gold medals for exhibits of collections of exhibits possessing special artistic merit. Of this number 14 have been provided by the liberality of a few Native Princes and Gentlemen, and the Committee trust that Government will be willing to provide the additional 5 medals required to make up the total number.

3. A sum of Rs. 4,900 has been subscribed by certain Ruling Chiefs and European and Native gentlemen for distribution as money prizes among the various craftsmen who have submitted exhibits. The Committee would propose that from this fund a sum of Rs. 30 should be given with each silver medal, Rs. 20 with each bronze medal and Rs. 10 with each Commended Certificate. The total amount to be thus awarded will exceed by some Rs. 1,000 the total sum subscribed, but the Committee understand that Government is prepared to make up the additional amount required. The Committee consider that where the artificer is himself the exhibitor he should receive the money in addition to the medal. Where the exhibitor is not himself the actual maker of the article, the medal or certificate should go to the exhibitor and the money be distributed to the actual workman or workmen. The money prize should in such cases be accompanied by a special certificate made out in the name of the workman.

4. In marking their awards the Committee confined themselves to a consideration of the exhibits in the main collection, and the exhibits in the jewellers' court and in the loan collection did not come within the scope of their work. But they desire in regard to the latter to record their opinion that the warmest acknowledgments are due to the Native Princes and others, especially the authorities of the South Kensington Museum, who have so generously placed their art treasures at the disposal of the Director. The Committee trust that it will be found possible to take advantage of this unique opportunity to secure reproductions, by means of coloured plates, of a few of the more beautiful and noteworthy exhibits in the loan collection: such plates could be utilised as models for classes in the Schools of Art, and in this way it may be possible to secure that some permanent benefit may result from this portion of the Exhibition.

5. In conclusion the Committee desire to record their opinion that the highest credit is due to Sir George Watt, the Director, and Mr. Percy Brown, the Assistant Director of the Exhibition, for their indefatigable efforts, which have resulted in so interesting and varied a collection of Indian Art Exhibits.

S. S. JACOB ... ... *President.*

STUART BEATSON.
C. L. BURNS.
O. GHILARDI.
T. H. HENDLEY.
R. D. MACKENZIE.
MADHO LAL.
RAM SINGH.
E. THURSTON,

} *Members.*

14th February 1903.

LIST OF AWARDS.

* * * * * * * *

DIVISION 3. ENAMELLED AND NIELLO WARES.

* * * * * * * *

(*c*) *Silver enamels.*

* * * * * * * *

Commended large series of blue enamels to Wasna Ram of Mooltan.

* * * * * * * *

DIVISION 4. GOLD AND SILVER PLATE.

* * * * * * * *

Commended attar-dan (rose-water sprinkler) (No. 4035) made by Parbh Dial and Milawa Mull of Hoshiarpur.

* * * * * * * *

DIVISION 5. DAMASCENED AND ENCRUSTED WARES.

(*a*) *Damascened or Koftgari work.*

* * * * * * * *

First prize with silver medal for plate (No. 3977) to Golam Muhammad of Sialkot—ordinary *koftgari* work of a very high order.

* * * * * * * *

First prize with silver medal for tray in ordinary *koftgari* work (No. 3983) and tea tray (No. 3985) made by Haji Muhammad Yar of Sialkot.

Second prize with silver medal for set of armour (*charina*) (7 pieces), (No. 3925) the larger foliar ornamentation in *dewali*, the other portions ordinary *koftgari*, made by Malak Imam Din of Sialkot.

Second prize with silver medal for shield (No. 3982) engraved steel with pattern in *dewali* work; sword hilt (No. 398) and tray (No. 3998) in *Teh Nishan* work, by Kazi Gulab Din of Sialkot.

* * * * * * * *

Third prize with bronze medal for *surahi* in *dewali* and *koft* (No. 4525) and a shield (No. 4828) made by Muhammad Azim of Gujrat.

Commended large tray in oriental style (central leaf work in *dewali* and marginal scrolls in ordinary *Koftgari* work) made by Abdul Aziz of Gujrat.

Commended large tray (No. 4531) (*dewali* work, but good design) made by Abdul Rahim of Gujrat.

Commended a surahi (No. 3989) made by Muhammad Bakhsh of Sialkot.

Commended large tray in *koft* work (No. 3976) made by Budha of Sialkot.

Commended a small *surahi* (No. 3968) ordinary *koftgari*; a large plate in *Ganga-Jamni* work (No. 3945) made by Fazal Karim of Sialkot.

* * * * * * * *

DIVISION 6. COPPER AND BRASS WARES.

(*a*) *Copper and Bronze.*

* * * * * * * *

First prize with silver medal to the Lahore School of Art for a pair of copper vases.

* * * * * * * *

(*b*) *Brass.*

* * * * * * * *

First prize with silver medal for a copper and brass door (No. 1604) made by Doolo, silversmith of Amritsar.

* * * * * * * *

Commended brass repoussé trays (Nos. 1607-08) made by Golam Jilani of Amritsar.

* * * * * * * *

DIVISION 8. LAPIDARY WORK.

Second Prize with silver medal for green jade book-rest (No. 21); jade *surahi* and tumbler (No. 44); also purbeck marble *surahi* and tumbler with table inlaid with mother-of-pearl; made by Muhammad Amin of Bhera.

DIVISION 11. POTTERY AND CLAY MODELLING.

(*a*) *Pottery.*

* * * * * * * *

First Prize with silver medal for Nos. 1—a plate—*rikabi* and 40 a blue glazed jar from Mooltan made by Gulam Hosain.

* * * * * * * *

Second Prize with bronze medal for vases and *rikabis* (Nos. 412, 417, 328, 356 and 377) made by Muhammad Husain of Mooltan.

* * * * * * * *

DIVISION 12. PLASTER-OF-PARIS AND CEMENT WORK.

Second Prize with bronze medal for triple archway made by pupils of the Lahore School of Art.

* * * * * * * *

DIVISION 13. WOOD-CARVING—ARCHITECTURAL AND FURNITURE.

* * * * * * * *

First Prize with gold medal to the Lahore School of Art for wood-carving shown on the Balcony of the Punjab Room.

* * * * * * * *

Second Prize with silver medal for sideboard made by the Lahore School of Art.

* * * * * * * *

Third Prize with bronze medal to Barkat Ali, of Jullundur, Punjab, for overmantel (No. 836), panel (No. 830), table (No. 835) and table (No. 838).

* * * * * * * *

Commended carved overmantel exhibited by Messrs. Davee Sahai Chamba Mull of Amritsar.

* * * * * * * *

DIVISION 14. INLAYING.

* * * * * * * *

Second Prize with silver medal to Atma Ram and Ganga Ram of Hoshiarpur for two boxes inlaid with ivory.

Third Prize with bronze medal to Maula Bakhsh and Dost Muhammad of Chiniot for a screen inlaid with metal.

* * * * * * * *

Commended table inlaid with metal, Bhagwan Singh of Jullundur.

Commended screen inlaid with metal, Muhammad Hussain of Chiniot.

Commended almirah inlaid with ivory, exhibited by G. B. Bleazby, Esq., of Lahore.

Commended screen inlaid with ivory and ebony by Jeyram Das and Karam Chand of Hoshiarpur.

* * * * * * * *

DIVISION 16. VENEERING, &C.

* * * * * * * *

Third Prize with bronze medal for a *pinjra* screen by Thakur Singh of Amritsar.

Third Prize with bronze medal for a *pinjra* screen by Davee Sahai Chamba Mull of Amritsar.

* * * * * * * *

Commended a *pinjra* screen by Palla Singh of Amritsar.

* * * * * * * *

Commended four *pinjra* overmantels by Sant Ram of Lahore.

* * * * * * * *

DIVISION 21. IVORY CARVING.

First Prize with gold medal to Lala Fakir Chand Raghu Nath Das of Delhi for collection of carved ivory.

* * * * * * * *

DIVISION 26. LAC-WARE OF INDIA.

* * * * * * * *

Commended a pair of gold lacquered vases—Ismail of Jampur, Dera Ghazi Khan.

* * * * * * * *

DIVISION 30. DYEING AND CALICO-PRINTING.

* * * * * * * *

Third Prize with bronze medal to Jhandoo of Lahore for cotton prints.

* * * * * * * *

DIVISION 33. TINSEL PRINTING.

Commended a pair of curtains—Gulab of Lahore.

* * * * * * * *

DIVISION 35. SILK.

* * * * * * * *

Commended kinkhab lungi—Hayat Muhammad of Bahawalpur.

* * * * * * * *

DIVISION 36. WOOL AND PASHM.

* * * * * * * *

First Prize with silver medal to Davee Sahai Chamba Mull of Amritsar, for Kashmir shawls.

Second Prize with bronze medal to Messrs. Ahsan Shah & Co., of Ludhiana, for Kashmir shawls.

* * * * * * * *

DIVISION 38. EMBROIDERY (SATIN OR DARN STITCHES).

* * * * * * * *

Second Prize with bronze medal to Davee Sahai Chamba Mull, Amritsar, for collection of *phulkaris.*

Commended embroidered handkerchief— Gusaon Jamadar of Chamba State.

* * * * * * * *

DIVISION 42. EMBROIDERY—NET WORK.

* * * * * * * *

Second Prize with bronze medal to Baptist Zenana Mission, Delhi, for embroidered net work.

* * * * * * * *

DIVISION 44. EMBROIDERY IN GOLD AND SILVERY WIRE.

* * * * * * * *

First Prize with silver medal to Manik Chand of Delhi for gold embroidered piano cover.

* * * * * * * *

Second Prize with bronze medal to Kishan Chand of Delhi for gold embroidered door curtain.

* * * * * * * *

Third Prize with bronze medal to Davee Sahai Chamba Mull, of Amritsar, for gold embroidered shawls.

Commended gold and silver embroidered shawls—Messrs. Ahsan Shah & Co., Ludhiana.

* * * * * * * *

DIVISION 46. PILE CARPETS.

* * * * * * * *

Commended woollen carpet No. 1398—Messrs. Davee Sahai Chamba Mull, Amritsar.

* * * * * * * *

DIVISION 49. STATUARY, &C.

* * * * * * * *

Second Prize with silver medal to Muhammad Husain Khan of Delhi, for a set of miniature paintings.

* * * * * * * *

R. E. V. ARBUTHNOT,
Secretary to the Judging Committee.

Punjab Government Press, Lahore—30-4-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MAY 7, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED MAY 2, 1903.

MILITARY SECRETARY'S OFFICE.

NOTIFICATION.

Simla, the 1st May, 1903.

No. 313-*M*.—Notice is hereby given that HIS EXCELLENCY THE VICEROY AND GOVERNOR-GENERAL will hold a Levée at Viceregal Lodge, Simla, at 9-45 P M. on Saturday, the 30th May 1903.

All Civil and Military Officers and the Native Officers of the Infantry Escort are invited to attend.

The following regulations are to be observed at His Excellency's Levée :

I.—Gentlemen who propose to attend His Excellency's Levée are requested to bring with them two large cards with their names *clearly written* thereon—one to be left with the Aide-de-Camp in waiting in the Corridor, and the other to be delivered to the Military Secretary, who will announce the name to His Excellency.

II.—Gentlemen who have not already been presented at the Court of St. James or at the Viceregal Court should send in their names and addresses through the Gentlemen who propose to present them to the Military Secretary's Office not later than Friday, the 22nd May 1903, in order that the names may be submitted to His Excellency, when, if they are approved, Presentation cards will be forwarded.

III.—Gentlemen presenting others must themselves attend the Levée.

IV.—Gentlemen wearing Uniform will appear in Full Dress. Gentlemen not entitled to wear Uniform will appear in Evening Dress. For further particulars as regards dress, attention is drawn to this Office Notification No. 904-M., dated the 8th September 1899.

By Command,

E. BARING, LIEUT.-COL.,

Military Secretary to the Viceroy.

HOME DEPARTMENT.

NOTIFICATIONS.

MEDICAL.

Simla, the 1st May, 1903.

No. 492.—Lieutenant-Colonel S. H. Browne, M.D., C.I.E., I.M.S. (Bengal), Principal and Professor of Medicine, Lahore Medical College, is appointed to be Inspector-General of Civil Hospitals, Bengal, with effect from the 10th April 1903.

No. 495.—With effect from the date of assuming charge, Lieutenant-Colonel F. F. Perry, F.R.C.S., I.M.S. (Bengal), Professor of Surgery, Lahore Medical College, is appointed to be Principal of that College, in addition to his own duties, *vice* Lieutenant-Colonel S. H. Browne, M.D., C.I.E., I.M.S. (Bengal).

No. 496.—With effect from the date of assuming charge, Captain D. W. Sutherland, M.B., I.M.S. (Bengal), Professor of Materia Medica and Pathology, Lahore Medical College, is appointed to be Professor of Medicine in that College, *vice* Lieutenant-Colonel S. H. Browne, M.D., C.I.E., I.M.S. (Bengal).

No. 497.—With effect from the date of assuming charge, Captain H. G. Melville, M.B., I.M.S. (Bengal), is appointed to be Professor of Materia Medica and Pathology in the Lahore Medical College, *vice* Captain D. W. Sutherland, M.B., I.M.S. (Bengal).

JUDICIAL.

The 1st May, 1903.

No. 777.—In exercise of the powers conferred by section 138 of the Negotiable Instruments Act, 1881 (XXVI of 1881), as amended by Act II of 1885, the Governor General in Council is pleased to appoint the persons for the time being holding the offices of Head Clerk of the Deputy Commissioner's Office, Delhi District, and Clerk of Court of the District Judge's Court, Delhi, to be Notaries Public and to exercise their functions as such within the district of Delhi.

No. 779.—Captain W. A. Bailey, Indian Army (36th Sikhs), Officiating Cantonment Magistrate, Ambala, has been granted privilege leave for two months and seven days with leave out of India for eight months in continuation, with effect from the date on which he availed himself of it. Pension service—seventeenth year, commenced on 25th April 1902.

H. H. RISLEY,

Offg. Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

CIVIL VETERINARY ADMINISTRATION.

Simla, the 30th April, 1903.

No. 715—44-4.—Veterinary Lieutenant A. Smith, F.R.C.V.S., Professor, Punjab Veterinary College, Lahore, is granted five months' special leave under Article 316, Civil Service Regulations, with effect from the 1st May 1903, or the subsequent date on which he may avail himself of it.

J. O. MILLER,

Secretary to the Government of India.

FOREIGN DEPARTMENT.

NOTIFICATION.

Simla, the 28th April, 1903.

No. 709-*G.*—The undermentioned officers have been selected as probationers for the Political Department of the Government of India, and are temporarily attached to the Punjab Commission as Supernumerary Assistant Commissioners :—

Lieutenant W. G. Hutchinson, Indian Army.

Lieutenant T. H. St. G. Tucker, Indian Army.

L. W. DANE,

Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 1st May, 1903.

PROMOTIONS.

INDIAN CIVIL VETERINARY DEPARTMENT.

No. 394.—The promotion of Veterinary Lieutenants J. Farmer, A. Smith, F. S. H. Baldrey and G. K. Walker, to the rank of Veterinary Captain, has effect from the 20th March 1902, and not as stated in G. G. O. No. 371 of 1903.

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

Punjab Light Horse.

No. 408.—Lieutenant John Powell to be Captain, *vice* Walker, transferred to the supernumerary list.

Theodore Copeland, Gentleman, to be Lieutenant, *vice* Powell, promoted.

1st Punjab Volunteer Rifle Corps.

No. 411.—Second-Lieutenant Herbert Richard Smith to be Lieutenant, *vice* Ostoche, transferred to the supernumerary list.

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

DIRECTOR-GENERAL, INDIAN MEDICAL SERVICE.

NOTIFICATION.

Simla, the 23rd April, 1903.

No. 14.—The services of No. 839, 2nd class Military Hospital Assistant Nattha Singh (Bengal), are placed permanently at the disposal of the Government of the Punjab, with effect from the 1st February 1903.

JOHN T. W. LESLIE, M.B., MAJOR, I.M.S.,

for *Director-General, Indian Medical Service.*

Punjab Government Press, Lahore—7-5-03—625.

Government Gazette

PUNJAB AND IT'S DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MAY 14, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED MAY 9, 1903.

HOME DEPARTMENT.

NOTIFICATION.

JUDICIAL.

Simla, the 5th May, 1903.

No. 812.—Major M. Stevens, Indian Army, Cantonment Magistrate, Ferozepore, is granted privilege leave for two months, and leave out of India for one year in continuation, with effect from the 14th May 1903.

H. H. RISLEY,

Offg. Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

STATISTICS AND COMMERCE.

MISCELLANEOUS.

Simla, the 8th May, 1903.

No. 2561-*S.R.*—In exercise of the powers conferred by section 4, sub-section (*1*), of the Indian Tea Cess Act, 1903 (IX of 1903), the Governor General in Council is pleased to constitute a Committee to receive and expend the proceeds of the tea cess levied and

collected under section 3 of the said Act ; and, with reference to section 4, sub-section (2), is further pleased to appoint the gentlemen named in the first column of the schedule hereto annexed, on the recommendation of the bodies and authorities named in the second column of the said schedule, to be the members of whom the said Committee shall in the first instance consist :

SCHEDULE.

Names of members.	Bodies or authorities by whom recommended.
1. E. Cable, Esq., President of the Bengal Chamber of Commerce.	1. } Bengal Chamber of Commerce.
2. Reginald Murray, Esq., Chief Manager, Commercial Bank of India, Limited.	2. } Bengal Chamber of Commerce.
3. J. M. G. Prophit, Esq., of Messrs. Turner, Morrison & Co.	3. } Bengal Chamber of Commerce.
4. A. D. Jackson, Esq., of Messrs. Parry & Co.	4. Madras Chamber of Commerce.
5. H. S. Ashton, Esq., of Messrs. Shaw, Wallace & Co.	5. } Indian Tea Association, Calcutta.
6. H. Bateson, Esq., of Messrs. Gillanders, Arbuthnot & Co.	6. } Indian Tea Association, Calcutta.
7. H. C. Begg, Esq., of Messrs. Begg, Dunlop & Co.	7. } Indian Tea Association, Calcutta.
8. W. Brown, Esq., of Messrs. Finlay, Muir & Co.	8. } Indian Tea Association, Calcutta.
9. D. Currie, Esq., of Messrs. MacNeill & Co.	9. } Indian Tea Association, Calcutta.
10. Lockhart Smith, Esq., of Messrs. Williamson, Magor & Co.	10. } Indian Tea Association, Calcutta.
11. A. Tocher, Esq., of Messrs. Duncan Brothers & Co.	11. } Indian Tea Association, Calcutta.
12. J. Buckingham, Esq., C.I.E., of Amgoorie Tea Estate, Sibsagar.	12. } Assam Branch, Indian Tea Association.
13. G. FitzGerald, Esq., of Chabwa Tea Estate, Dibrugarh.	13. } Assam Branch, Indian Tea Association.
14. R. H. Henderson, Esq., of the Tarrapore Tea Co., Ltd.	14. } Surma Valley Branch, Indian Tea Association.
15. G. Frazer, Esq., of the Lungla Tea Co., Shamshernuggar.	15. } Surma Valley Branch, Indian Tea Association.
16. H. R. Irwin, Esq., President, Darjeeling Planters' Association.	16. The Darjeeling Planters' Association and the Terai Planters' Association, jointly.
17. W. Milne, Esq., Honorary Secretary, Dooars Planters' Association.	17. The Dooars Planters' Association.
18. Lt.-Col. S. J. Rennie, R. A. M. C. (retired).	18. The Dehra Dun Planters' Association.
19. A. Grey, Esq., Bar.-at-Law, Lahore.	19. The Kangra Valley Planters' Association.
20. The Hon'ble Mr. G. L. Acworth.	20. The United Planters' Association of Southern India.

E. N. BAKER,

Offg. Secretary to the Government of India.

THE HONOURABLE THE AGENT TO THE GOVERNOR-GENERAL AND CHIEF COMMISSIONER, NORTH-WEST FRONTIER PROVINCE.

NOTIFICATION.

EXAMINATION.

Peshâwar, the 30th April 1903.

No. 73.—The following candidates are declared to have passed the prescribed tests in Pushtu by the Higher Standard at the Examination held at Peshawar, Dera Ismail Khan, Quetta and Mian Mir on the 3rd and 4th April 1903:—

1. Lieutenant G. H. Anderson, 3rd Assistant to the Agent to the Governor-General, Baluchistan (with credit).
2. Lieutenant J. B. Christian, I.M.S.
3. 2nd-Lieutenant G. A. G. Shepherd, 4th Punjab Infantry.
4. 2nd-Lieutenant O. T. M. Leckie, 1st West Yorkshire Regiment.
5. Lieutenant G. N. Hill, No. 9 Mountain Battery, Royal Garrison Artillery.
6. Store Sergeant T. Wilson, Karachi Arsenal.
7. Lieutenant C. R. Crowdy, No. 9 Mountain Battery, Royal Garrison Artillery.
8. Lieutenant R. B. Skinner, R.E.
9. Lieutenant E. M. Nixon, 6th Bombay Cavalry.
10. Captain A. C. Wilkinson, No. 8 Mountain Battery, Royal Garrison Artillery.
11. Lieutenant C. L. Norman, Queen's Own Corps of Guides Cavalry.
12. Captain J. R. Broun, 3rd Sikhs.
13. Lieutenant G. D. Campbell, 40th Punjab Infantry.
14. Captain R. L. Haymes, R.A., Frontier Garrison Artillery.
15. Mr. J. H. H. Bill, C.S., Assistant Commissioner, Punjab.
16. Assistant Surgeon T. H. Brooks, I.S.M.D.
17. Lieutenant F. H. Humphreys, 25th Punjab Infantry.
18. Lieutenant W. W. Muir, 15th Sikhs.
19. Mr. D. Petrie, Assistant District Superintendent of Police, Punjab.
20. Mr. A. R. Jelf, C.S., Assistant Commissioner, Peshawar.
21. Sergeant Bugler J. Schooling, Somerset Light Infantry.

R. I. R. GLANCY,

Assistant Secretary to the Chief Commissioner,

N.-W. F. Province.

Punjab Government Press, Lahore—14-5-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MAY 21, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED MAY 16, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Simla, the 14th May, 1903.

No. 1928.—In exercise of the power conferred by section 27 of the Indian Arms Act, 1878 (XI of 1878), and in supersession of the Notification of the Government of India in the Home Department, No. 1438, dated the 27th March 1903, the Governor General in Council is pleased to exempt from the operation of all prohibitions and directions contained in the Act, all British officers in regimental employ, members of Volunteer Corps, Staff Sergeants and Warrant Officers of British units of the Army, including such as are instructors of Volunteer Corps in respect of single-barrel rifles of '303 bore used or intended to be used by them for match-shooting purposes, subject to the following conditions namely:

(*a*) that only one such rifle at a time shall be imported or used by any individual hereby exempted,

(*b*) that the rifle shall be sighted to a range of over 1,000 yards,

(*c*) that the rifle shall become part of the equipment of the Corps to which the owner may, for the time being, belong,

(*d*) that the owner shall, at the time of importation, produce a certificate from the Commanding Officer of the Corps to which he belongs to the effect that the weapon will be brought on to the equipment ledger of the Corps and will be accounted for in the same manner as other equipment, and

(*e*) that this exemption shall cease to have effect on the owner leaving regimental employ permanently or the Volunteer force, as the case may be: provided that, if he departs from India immediately after so leaving, he may take the weapon with him.

No. 2000.—In exercise of the power conferred by section 17 of the India Arms Act, 1878 (XI of 1878), the Governor-General in Council is pleased to direct that the words "revolvers manufactured out of India" be substituted for the words, revolvers of European manufacture" in clause 10, as inserted by the Notification of the Government of India in the Home Department, No. 6314, dated the 13th December 1901, in the conditions printed on the back of forms VI and VII of the licenses prescribed by the like Notification No. 518, dated the 6th March 1879, as amended by subsequent Notifications.

JUDICIAL.

The 12th May, 1903.

No. 852.—The services of Captain F. G. A. Wimberley, 6th Jat Light Infantry, are placed temporarily at the disposal of the Government of the Punjab for employment as an Officiating Cantonment Magistrate.

POLICE.

The 14th May, 1903.

No. 391.—In exercise of the powers conferred by section 2, sub-sections (*1*) and (*2*) of the Police Act, 1888 (III of 1888), as in force in British India or as locally applied, the Governor-General in Council is pleased (*a*) to create a general police-district embracing all the lands for the time being occupied by the Rajpura-Bhatinda, the Ludhiana-Dhuri-Jakhal, the Southren Punjab and the Jammu-Kashmir Railways, by the Bhatinda-Ferozepore Section and the Kotkapura-Fazilka Branch of the Rajputana-Malwa Railway, and by the North-Western Railway, including the portions situate in the North-West Frontier Province and in the States of Patiala, Nabha and Kapurthala, but excluding the portions situate in British Baluchistan and in the territories administered by the Agent to the Governor-General in Baluchistan as such Agent, all lands occupied by stations, by outbuildings and for other railway purposes being included, (*b*) to order the enrolment under the Police Act, 1861 (V of 1861), of a police force for service therein, and (*c*) to direct that the police force enrolled in pursuance of the Notifications specified in paragraph III of this Notification shall be deemed to have been enrolled in pursuance of this Notification.

II. The Governor-General in Council is also pleased to appoint the Lieutenant-Governor of the Punjab to discharge, with respect to the general police-district and the police force aforesaid, the functions of the Local Government under the Police Act, 1861 (V of 1861), the Code of Criminal Procedure, 1898 (Act V of 1898), and any other enactment relating to Police for the time being in force in the said lands or in any part thereof.

III. The following Notifications of the Government of India in the Home Department are hereby cancelled :

No. 901, dated the 12th December 1901.

No. 211, dated the 21st March 1902.

H. H. RISLEY,

Offg. Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

CIVIL VETERINARY ADMINISTRATION.

Simla, the 13th May, 1903.

No. 795—44-6.—Veterinary Lieutenant F. S. H. Baldrey, Indian Civil Veterinary Department, is posted, until further orders, to the Lahore Veterinary College, with effect from the date on which he assumes charge of his new duties.

J. O. MILLER,

Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 15th May, 1903.

PROMOTIONS.

INDIAN ARMY.

No. 452.—The following promotions are made, subject to His Majesty's approval :

Captains to be Majors.

9th May 1903.

* * * * * * * *

Philip Sykes Murphy Burlton.

* * * * * * * *

Charles Brooke Rawlinson.

* * * * * * * *

VOLUNTEER CORPS.

MEDALS AND DECORATIONS.

No. 466.—His Excellency the Governor-General of India is pleased to confer the Volunteer Officers' Decoration upon the undermentioned officers :

* * * * * * * *

2nd Punjab (Simla) Volunteer Rifles.

Captain William Mitchell.

* * * * * * * *

No. 467.—The undermentioned members of the Indian Volunteer Force are granted the Volunteer long service medal :

* * * * * * * *

1st Punjab Volunteer Rifles.

Volunteer W. Aikin.
Volunteer D. E. Young.

2nd Punjab (Simla) Volunteer Rifles.

Sergeant E. J. Enery.
Corporal E. Binge.
Volunteer W. N. Leicester.

* * * * * * * *

North-Western Railway Volunteer Rifles.

Colour-Sergeant J. H. Falloon.
Sergeant W. H. Buxton.
Sergeant J. J. D'Cunha.
Sergeant H. Grimshaw.
Corporal G. A. Switzer.
Volunteer R. D'Sowza.
Volunteer J. V. Fernandez.
Volunteer F. G. Wood.

* * * * * * * *

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 12th May, 1903.

No. 175.—The services of Mr. Burton Chandu Lall, Executive Engineer, 2nd Grade, United Provinces, were temporarily placed at the disposal of the Foreign Department, for work in connection with the Delhi Coronation Darbar, with effect from the 28th October 1902, to the afternoon of the 11th March 1903.

SIDNEY PRESTON,
Secretary to the Government of India.

THE HONOURABLE THE AGENT TO THE GOVERNOR-GENERAL AND CHIEF COMMISSIONER, NORTH-WEST FRONTIER PROVINCE.

NOTIFICATION.

Peshawar, the 7th May, 1903.

No. 84.—The services of Mr. F. B. R. Spencer, Extra Assistant Commissioner, are replaced at the disposal of the Punjab Government for employment in that Province, with effect from the afternoon of the 4th April 1903.

By order,

A. H. GRANT,
Secretary to the Chief Commissioner,
N.-W. Frontier Province.

Punjab Government Press, Lahore—21-5-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MAY 28, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED MAY 23, 1903.

HOME DEPARTMENT.

NOTIFICATION.

JAILS.

Simla, the 20th May, 1903.

No. 405.—The services of Lieutenant R. McL. Dalziell, M. B., Indian Medical Service, are placed temporarily at the disposal of the Government of the Punjab for employment in the Jail Department.

H. H. RISLEY,

Offg. Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

SEPARATE REVENUE.

POST OFFICE.

Simla, the 20th May, 1903.

No. 2907-*S. R.*—In exercise of the powers conferred by the Indian Post Office Act, 1898 (VI of 1898), the Governor General in Council is pleased to direct that the under-mentioned amendments shall be made in the rules published in the Notification in this Department, No. 1429-C., S.R., dated the 30th March 1899:

I. *For* rules 5, 33, 77 and 78 *substitute* the following:

5. Single and reply cards of private manufacture, with or without adhesive postage stamps affixed thereto in payment of postage, may be transmitted by post as postcards:

Provided that. as regards size, they are not more than $5\frac{1}{2}$ by $3\frac{1}{2}$ inches or less than $4\frac{3}{4}$ by 3 inches and that, as regards substance of paper, they are in conformity with the inland postcards issued by the Post Office.

33. The sender of a registered article shall be entitled to obtain an acknowledgment of its delivery, signed by the addressee, by paying a fee of one anna, in addition to tho postage and registration fee, at the time of posting the article. The fee for a special acknowledgment shall be paid by means of postage stamps affixed to the article.

77. The amount for which a single money order may be issued shall not exceed Rupees 600, and shall not include a fraction of an anna, except in the case of money orders issued by, or in favour of, any Department of the Government, or by, or in favour of, a District, Local, or Municipal Board.

Explanation.—The words "any Department of the Government" include any official Department of the Government of a Native State the Posts of which have been amalgamated with the Imperial Post.

78. Money orders may be issued on the following Native States with which special arrangements have been made for the exchange of money orders, but the amount for which a single money order may be issued on these States shall not exceed Rupees 150:

Chamba.	Jind.	Patiala.
Gwalior.	Nabha.	

Explanation.—The exception in the last preceding rule applies also to money orders issued by, or in favour of, any official Department of any of these States.

II. *For* condition (4) in rule 18 *substitute* the following:

(4) The newspaper shall be posted at the place of publication by the proprietor, manager, or publisher.

E. N. BAKER,

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

NOTIFICATION.

Simla, the 22nd May, 1903.

MEDICAL DEPARTMENT.

No. 477.—The Governor-General in Council is pleased to publish the following rules under which certificates of age and nationality will be issued to natives of India who are candidates for the examinations for the Indian Medical Service held in England:

General Rules applicable to all Candidates.

I. A candidate for admission to compete in England for the Indian Medical Service is required before leaving India to obtain a certificate of age and nationality, signed, should he be a resident in British India, by the Secretary to Government of the Province or the Commissioner of the Division, within which his family resides; or, should he reside in a Native State, by the highest Political Officer accredited to the State in which his family resides.

Note.—In the case of a candidate who has proceeded to England without obtaining a certificate the certificate may be granted to his father or guardian, provided that the latter produces the requisite evidence, and, when making the application, states when the candidate went to England, and where he has been residing during his stay in that country.

II. In order to obtain a certificate, a candidate is required, if resident in British India, to prove the date and place of his birth before the Magistrate of the district in which his family resides, or, if resident in a Native State, before the Political Officer of the State in which his family resides.

III. A candidate must, if resident in British India, signify to the Secretary to Government of the Province or the Commissioner of the Division in which his family resides his desire to compete not less than three months before the date on which he proposes to go to England. If resident within a Native State, he must signify his desire in like manner to the highest Political Officer accredited to the State within which his family resides.

The officer to whom the application is made shall forward it for the purpose of enquiry to the Magistrate of the district or Political Officer of the State in which the applicant's family resides.

IV. The Magistrate or Political Officer to whom such application has been forwarded shall call upon the candidate to appear and give evidence of the date and place of his birth and of his nationality within one month. He will carefully examine into the value of the evidence given and forward a summary of it with certified copies of all documents tendered and his comments and opinion, to the officer who forwarded the application to him for enquiry.

V. The documentary evidence which a candidate may be expected to produce comprises—

(*a*) The horoscope.

(*b*) Family books.

(*c*) Tradesmen's account books showing entries relating to the birth.

(*d*) The record of admission in the registers of the school in which the candidate was educated, and the record of the candidate's age at various periodical examinations.

(*e*) If the candidate is matriculated, a certified copy of his application to the Registrar.

Oral testimony of persons acquainted with the candidate's family or otherwise able to give relevant evidence, will also be taken; and the candidate is required to comply to the best of his power, with any requisition the Magistrate or Political Officer, as the case may be, may make in order to clear up any doubt as to the purport of the documentary proof.

VI. Any declaration of age made after the application of these rules on the occasion of seeking admission to any university examination, educational institution, or Government office, or otherwise recorded in a formal and deliberate manner, will be taken as conclusive evidence in disproof of the subsequent assertion by the same person that he is of different age to that so declared or recorded.

Rules to apply to Candidates born in His Majesty's Dominions.

VII. If the Secretary to Government, Commissioner of a Division, or the highest Political Officer accredited to the State, as the case may be, shall be satisfied by the papers submitted that the candidate has stated the date and place of his birth correctly, he will issue a certificate declaring that the candidate has submitted the proofs of his birth to the Magistrate of the district or the Political Officer of the State, as the case may be, and has satisfied him that he was actually born on or about the dates stated by him, *viz.*, the day of 19 , at a place within His Majesty's Dominions. The nature of the evidence produced by the candidate must be stated in the certificate, which shall be given in the following form—

I hereby certify that , who is a candidate for the Indian Medical Service, has submitted the proofs of his birth detailed below, and has satisfactorily shown that he was actually born on or about the date stated, *viz.*, the date of 19 , at a place within His Majesty's Dominions.

(Here enter details).

* * * * * * * *

VIII. If the Secretary to Government, Commissioner of a Division, or the highest Political Officer accredited to the State, as the case may be, finds reason to disbelieve that the candidate was born on the day or at the place asserted by him, the certificate will be refused, and the candidate will be unable to obtain admission to the competitive examination for the Indian Medical Service.

IX. Where the date and place of the birth have been formally registered in a register kept by any public officer in British India, an extract from the register, duly certified by the proper official, shall be accepted as sufficient proof of the date and place of the birth.

Rules to apply to Candidates not born within His Majesty's Dominions.

X. In addition to the particulars required by Rule II a candidate not born in His Majesty's Dominions must also prove that he is the son or grandson of a person born in those dominions.

XI. If the Secretary to Government, Commissioner of a Division, or the highest Political Officer accredited to the State, as the case may be, shall be satisfied by t[illegible] papers submitted that the candidate has stated the date and place of his birth correctly, and has established the fact that though born without the limits of His Majesty's Dominions, he is the son or grandson of a person born in those dominions, he will issue a certificate in the following form stating the nature of the evidence produced regarding the candidate's birth—

I hereby certify that , who is a candidate for the Indian Medical Service, has submitted the proofs of his birth detailed below and has satisfactorily shown that he was actually born on or about the date stated, *viz.*, the day of 19 , and that he was born at a place without His Majesty's Dominions, but that he is the son/grandson of a person born in those dominions.

(Here enter details).

* * * * * * * *

XII. If the Secretary to Government, Commissioner of a Division, or the highest Political Officer accredited to the State, as the case may be, finds reason to doubt that the candidate was born on the day asserted by him, or that he is the son or grandson of a person born in His Majesty's Dominions, the certificate will be refused; and the candidate will be unable to obtain admission to the competitive examination for the Indian Medical Service.

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

1st Punjab Volunteer Rifle Corps.

No. 489.—Second Lieutenant Arthur D'Orville Smithe to be Lieutenant, *vice* Davison, promoted.

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

RAILWAYS.

NOTIFICATION.

Simla, the 18th May, 1903.

No. 185.—The following promotions and reversions are ordered in the Superior Accounts Branch:

Name.	From	To	Nature of promotion.	With effect from
				1903.
* * *	* *	* *	* *	* *
Mr. E. A. Dennys ...	Examiner, Class II ...	Examiner, Class I ...	Temporary	21st March.
* * *	* *	* *	* *	* *
Mr. E. A. Dennys ...	Examiner, Class I, temporary.	Examiner, Class II ...	...	5th May.
* * *	* *	* *	* *	* *

A. BRERETON,
Secretary to the Government of India.

Punjab Government Paess, Lahore—28-5-03—625.

Government Gazette

PUNJAB AND IT'S DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JUNE 4, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED MAY 30, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Simla, the 27th May, 1903.

No. 2191.—It is hereby notified for general information that the Bishop of Nagpur will take rank in Article 20 of the Warrant of Precedence for India published with the Government of India, Home Department, Notification No. 328, dated the 10th February 1899.

MEDICAL.

The 29th May, 1903.

No. 635.—His Excellency the Viceroy and Governor-General has been pleased to appoint the following Assistant Surgeons to be Honorary Assistant Surgeons on His Excellency's Personal Staff :

Senior Assistant Surgeon Atta Muhammad, *Khan Bahadur*, Punjab.

* * * * * * * *

H. H. RISLEY,

Offg. Secretary to the Government of India.

Punjab Government Press, Lahore—4-6-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JUNE 11, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED JUNE 6, 1903.

HOME DEPARTMENT.

NOTIFICATION.

MEDICAL.

Simla, the 2nd June, 1903.

No. 665.—The services of Captain D. H. F. Cowin, I.M.S., are placed temporarily at the disposal of the Government of the Punjab.

H. H. RISLEY,

Offg. Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

PENSIONS AND GRATUITIES.

No. 3284-P.

Simla, the 5th June, 1903.

RESOLUTION—By the Government of India, Finance and Commerce Department.

With the sanction of His Majesty's Secretary of State for India, the Governor-General in Council has approved the institution of a Provident Fund for the officers of the Civil Veterinary Department.

2. The rules under which the Fund will, for the present, be conducted are attached to this Resolution.

3. Subscriptions to the Fund should first be made on salaries becoming due on the 1st July 1903.

Ordered that the Resolution be published in the *Gazette of India.*

E. N. BAKER,

Offg. Secretary to the Government of India.

CIVIL VETERINARY DEPARTMENT PROVIDENT FUND.

1. *Preamble.*

I.—The institution of a Provident Fund under the conditions specified in Rule II is sanctioned for officers of the Civil Veterinary Department.

2. *Qualifications.*

II.—The following officers will be required to subscribe to the Fund:

(*a*) Army Veterinary Officers of the Department, irrespective of rank, who are already married or may marry while in the service, excepting those who may produce satisfactory evidence that adequate provision has already been made for their families.

(*b*) Civilian officers who may be appointed hereafter to the Department, whether married or unmarried, from the date of their appointment.

Note.—For the purposes of this rule the term "married officers" includes widowers with children, but excludes widowers without children.

III.—Officers who are exempted from subscribing to the Fund under Rule II (*a*) shall be required to produce annually such evidence as shall satisfy the Inspector-General, Civil Veterinary Department, that the provision on account of which exemption is claimed is duly continued.

IV.—Civilian officers already in the service shall have the option of subscribing to the Fund, and the deposits may be discontinued or renewed at the option of the subscriber.

2. *Subscriptions.*

V.—The conditions under which officers will join the Fund are as follows:

(1) The monthly deposit may not be less than 2½ per cent. in the case of Army Veterinary officers and 5 per cent. in the case of Civilian officers, and not more than 10 per cent. on the salary (as defined in the Civil Service Regulations) of each depositor for the month.

(2) A officer on leave of any kind may at his option subscribe any sum he pleases, subject to a minimum of 2½ per cent. in the case of an Army Veterinary officer, and 5 per cent. in the case of a Civilian officer, on his leave allowances, and a maximum of 10 per cent. on the salary he drew when last on duty.

Receipts of deposits.

VI.—Deposits will be recovered by deduction from bills, except in the following cases in which they may be made in cash in India:—

(1) When an officer draws his leave allowances out of India.

(2) When an officer is on leave without allowances.

(3) When an officer is in foreign service.

Cash subscriptions must be remitted by depositors to the Secretary of the Fund. Receipts and payments will be made in rupees only.

Arrear subscriptions of voluntary deposits are never allowed. Arrear subscriptions are permissible in the case of compulsory deposits, and their recovery will be enforced even though it may result in a recovery in excess of the limit of 10 per cent. of the salary from which it is made.

4. *Benefits.*

VII.—Compound interest at 4 per cent. on the payments made will be annually credited by Government to each officer subscribing. The Government may at any time, at its option, and without giving any right to withdrawal of subscriptions, reduce the rate of interest to any rate not less than half per cent. in excess of that at which it is raising rupee loans in India.

Interest.

VIII.—Interest will be allowed for each calendar month upon the minimum balance of the depositor's accounts between the close of the fourth day and the end of the month. In calculating interest under this rule the deposits received by deduction from salary will

be considered as paid into the Fund on the 1st of the month succeeding that for which the salaries from which the deductions are made are due. The interest will be calculated monthly, but will not be added to principal until the end of the official year, except when the account is to be finally closed (in consequence of the depositors dying or quitting the service). Interest will be allowed up to the end of the month in which the depositor dies, or which immediately precedes that in which he quits the service, whether the balance at credit is withdrawn before or after the end of that month.

IX.—As exceptions to the rule that subscriptions realized by deduction from pay bills are to be considered for the purpose of calculating interest as paid into the Fund on the 1st of the month succeeding that for which the salaries from which the deductions are made are due:

(1) Deductions made from salaries paid in advance owing to transfer or long leave out of India are to be considered in the case of the former as having been made on the date on which an officer is relieved of his duties, and in the case of the latter, as having been made on the date on which the Account Office pays up an officer prior to embarkation.

(2) Deductions from salaries paid in arrears in consequence of promotion given with retrospective effect should be considered as having been made on the first of the month in which the arrears are drawn.

In the case of reversions made with retrospective effect, the write back of the amount originally recovered in conformity with the rules should be considered as having been made on the first of the month in which the recovery is effected.

X.—The sum which will thus accumulate to the credit of an officer will be his absolute property, to be handed over to him unconditionally on quitting the service, or in the event of his death before retirement, to his legal representatives. Government will not be bound by or recognise any assignment or trust executed or attempted to be created by any officer during his lifetime, and will only make payments (*1*) during the lifetime of the officer on his own receipt; (2) after his death in accordance with Rule XI below.

XI.—The balances of deceased depositors are regulated by the Indian Succession Act (X of 1865), the Administrator General's Act (II of 1874) and the Succession Certificate Act (VII of 1889), in cases where the balance at credit of the deceased member exceeds two thousand rupees; and in cases where the balance at credit does not exceed two thousand rupees, by section 3 of the Provident Funds Act (IX of 1897), which is quoted below:

Section 3.—(1) When a subscriber to, or depositor in, any Government or Railway Provident Fund dies, and the sum standing to his credit in the books of the Fund does not exceed two thousand rupees, the officer or person whose duty it is to make payment of such sum may pay it as follows:

(*a*) He may pay it to any person entitled to receive it according to the rules of the Fund or, in the absence of any rule of the Fund to the contrary, to any person nominated in writing by the deceased subscriber or depositor to receive it;

(*b*) in any case not hereinbefore provided for, he may pay it to any person appearing to him to be entitled to receive it.

(2) The provisions of sub-section (1) shall apply to any such sum which, at the commencement of this Act, stands to the credit of any subscriber or depositor already deceased.

(3) Nothing in this section shall affect the validity of the rules of any Fund in so far as such rules may provide for the disposal of sums exceeding two thousand rupees.

5. *Advances.*

Withdrawals.

XII.—No withdrawal will ordinarily be allowed from the deposit until the depositor quits the service or dies. But on the Inspector General, Civil Veterinary Department, being satisfied that the pecuniary circumstances of a depositor are such that the indulgence is absolutely necessary, a deposit may be temporarily withdrawn under ord s issued by the Inspector-General—

(i) to pay for the passage of the depositor going on leave out of India on medical certificate or returning after such absence;

(ii) to pay for the passage of any member of the depositor's family coming from beyond the sea to join him, or going beyond sea, sick, or from some urgent cause.

XIII.—Before authorising a withdrawal under the above rule, the Inspector-General, Civil Veterinary Department, should ascertain from Account Officer that the withdrawal is covered by the amount at credit, and no payment may be made, save under the orders of the Account Officer.

XIV.—Withdrawals under Rule XII will be recovered in twenty equal monthly instalments compulsorily deducted from salary in addition to contributions under Rule V, whenever full salary is drawn, until the whole is refunded. Such instalments may be paid in advance.

6. *Procedure.*

Administration of the Fund.

XV.—The deposits received under the foregoing rules will be credited on the books of the Government to an account named "Civil Veterinary Department Provident Fund." The administration of the Fund will rest with the Government of India in the Department of Revenue and Agriculture. The Secretary of the Fund will be the Account Officer of the Fund, that is, the Comptroller, India Treasuries.

Yearly advice to depositors.

XVI.—As soon as possible after the close of each year, each depositor will receive a statement of his account with interest made up to 31st March. Depositors are required to satisfy themselves as to the correctness of these statements; and, unless errors in them are brought to the notice of the officer rendering the account within one month from the date of their receipt, Government will not be responsible for any sums not thus acknowledged.

XVII.—Any depositor may, once in the official year, but not oftener, receive on application to the Comptroller, India Treasuries, a copy of his account for the last official year and for so many months of the current year as may have been posted and agreed.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 4th June, 1903.

No. 213.—Lieutenant-Colonel H. E. S. Abbott, D.S.O., R.E., Superintending Engineer, 2nd Class, temporary rank, is appointed to officiate as Chief Engineer and Secretary to the Government of the Punjab in the Public Works Department during the absence on leave of Colonel J. W. Thurburn, R.E., or until further orders.

SIDNEY PRESTON,

Secretary to the Government of India.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JUNE 18, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED JUNE 13, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Simla, the 11th June, 1903.

No. 2346.—In exercise of the power conferred by section 5 of the Indian Explosives Act, 1884 (IV of 1884), the Governor-General in Council is pleased to make the following amendments in the rules to regulate the transport and importation of explosives published with the Notification of the Government of India in the Home Department, No. 5528, dated the 11th October 1901 :

I. For paragraph 2 of rule 8, which runs as follows :

"Provided that any explosive other than an explosive specified in rule 11 may, previous to the grant of an importation license, if certified to be a British manufacture or, if not of British manufacture, if imported from the United Kingdom and covered by the certificate granted by one of His Majesty's Inspectors of Explosives in England, be landed in accordance with such regulations as the Local Government may prescribe in this behalf, and be stored in a place set apart by the Local Government for this purpose. The Governor General in Council may extend this privilege to any such explosive not of British manufacture regarding which he is satisfied that it has been manufactured under adequate official supervision,"

the following paragraph shall be substituted, namely :

"Provided that any explosive other than an explosive specified in rule 11 may previous to the grant of an importation license, if certified to be of British manufacture or, if not of British manufacture, if imported from the United Kingdom and covered by the certificate granted by one of His Majesty's Inspectors of Explosives in England, be landed in accordance with such regulations as the Local Government may prescribe in this behalf, and be stored in a place set apart by the Local Government for this purpose, or in any of such private magazines as the said Government may have notified as being suitable for this purpose. Any such explosive of British

manufacture may also be transported by rail to any of such private magazines previous to the grant of an importation license. The Governor General in Council may extend to any such explosive not of British manufacture regarding which he is satisfied that it has been manufactured under adequate official supervision the privilege of landing granted by this proviso, but such explosive may not be transported by rail until an importation license has been granted."

II. In rule 10, after the words "An explosive shall not be imported by sea except at one of Ports of Calcutta" the words "(including Moyapur and Diamond Harbour)" shall be inserted.

III. In the second clause of rule 15, for the words "All explosives of which samples are taken for examination shall be forthwith deposited in a duly licensed place or places of storage," the words "All explosives of which samples are taken for examination shall forthwith be deposited in a place or magazine set apart or notified under the proviso to rule 8," shall be substituted.

IV. At the end of condition 3 to License Form A attached to the rules the words "except in the case of explosives despatched to places or magazines set apart or notified under the proviso to rule 8" shall be added.

MEDICAL.

The 9th June, 1903.

No. 711.—Captain F. N. Windsor, M.B., Indian Medical Service (Bengal), was employed as a probationer in the Chemical Examiner's Department from the 20th to the 23rd April 1903. He is appointed to officiate as Chemical Examiner and Professor of Chemistry in the Medical College, Lahore, with effect from the 24th April 1903, during the absence on deputation of Lieutenant-Colonel D. St. J. D. Grant, M.B., Indian Medical Service (Bengal), or until further orders.

H. H. RISLEY,
Offg. Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

FORESTS.

Simla, the 11th June, 1903.

No. 636—80-7 *F.*—Mr. J. A. McKee, Conservator of Forests, 1st Grade, United Provinces, is granted privilege leave for three months, with effect from the 28th May 1903, combined with furlough extending to the 8th December 1903.

From the former date, the following appointments are made:

* * * * * * *

(*ii*) Mr. F. Beadon Bryant, Conservator, 2nd Grade, Punjab, to officiate as Conservator, 1st Grade, *vice* Mr. A. M. Reuther.

* * * * * * *

COMMERCIAL EXHIBITIONS.

The 12th June, 1903.

RESOLUTION—By the Government of India, Department of Revenue and Agriculture.

No. 20—30-3.—The following Notification of a Universal and International Exhibition to be held at Liége in the year 1905 is published for general information.

J. O. MILLER,
Secretary to the Government of India.

LIÉGE UNIVERSAL AND INTERNATIONAL EXHIBITION.

ORGANIZED FOR 1905.

Under the High Patronage of His Majesty the King of the Belgians, the Honorary Presidency of H. R. H. the Count of Flanders, and the Presidency of H. R. H. Prince Albert of Belgium.

A Universal and International Exhibition will open at Liége in the month of April 1905 and will last for at least six months.

It will include chiefly Artistic, Scientific, Industrial, Commercial and Colonial Sections.

The Artistic Section will consist of a Fine-Art Saloon and, most probably, of an Exhibition of old Art of the Liége District. The inestimable riches found in museums, public monuments and private collections of our antique Principality will enable this last-named section to be remarkably supplied, and this display will be completed by a compartment of photographic reproductions of the quaint old monuments of Belgium.

The Colonial Section will comprise an Exhibition of the Congo Free State and this will be given an importance to echo the keen interest now inspired by this work of grandeur, due to the initiative of the King.

The programme also includes temporary agricultural and horticultural Shows Congresses, Conferences, artistic and sportive Fêtes, and Competitions of every description.

Further, the organisers purpose reserving a special spot for re-constituting Old Liége, where monuments and specimens of architecture of the City of the Prince-Bishops will be reproduced.

*
* *

The Exhibition will take place in that picturesque frame forming the valley of the Meuse at the confluence of the Ourthe. The main grounds attached will be the Cointe Park displaying its landscapes of verdure over the hills surrounding the City.

These two sites, only 1,500 metres distant from one another, will be connected by various means of communication.

The Exhibition will cover a total area of 45 hectares, an important part of which will be reserved to foreign sections. It will be connected with the Nord-Belge Railway Company's and the Belgian State Railway lines.

The Principal Palace as well as the Halls of the Exhibition will be built of iron and covered with hard materials; the roofed surface amounting to at least one hundred thousand square metres.

The machinery gallery will include numerous workshops in operation under the eyes of the public.

A vast park containing numerous attractions will surround the buildings.

*
* *

The necessary measures will be taken for protecting patentable inventions, industrial designs or models, and manufacturing or trade marks appearing at the Exhibition.

The Government will grant on the State railways free transport, to and fro, of Belgian products consigned to the Exhibition and free return in the case of foreign exhibits.

The Exhibition will be treated as an actual bonded warehouse, foreign goods intended to appear at the Exhibition being allowed provisional duty-free importation subject to being afterwards re-exported.

*
* *

The Executive Committee are already engaged in settling the general regulations, the classification of products, and conditions of admission to the Exhibition.

The system of division by national compartments, *i. e.*, grouping together the works and produce of each country, combined with a mode of general classification, has already been adopted.

The price for space will include the expenses of general decoration and handling charges: exhibitors will thus be enabled to ascertain beforehand the exact outlay incumbent upon them.

A lottery will be organised under the authority and supervision of the Government; most of the prizes will be purchased from amongst the exhibits.

An International Jury appointed with the approbation of the Government will undertake the allotment of awards.

*
* *

The Cities of Brussels and Antwerp organised in the past Universal Exhibitions which proved highly successful: our large Walloon City, having regard to its topographical situation, the importance of its population, the Art treasures it has been accumulating for centuries, the numerous and really important industries of which it is the centre, the extent of commercial relations which it has succeeded in establishing all over the world, may look forward to an equal success.

The industrial basin around Liége is in the position to give the metallurgy, mining, machinery, arm-manufacturing, electricity and automobilism groups such a character and importance as have perhaps never been realised at former exhibitions.

Important corporations of Liége are now under formation, extensive participations of the whole of Belgium are so far secured, and adhesions have been received from the large neighbouring countries having active commercial relations with Belgium.

In this regard it might be noted that the general trade of Belgium in 1901 amounted to 7,000,000,000 francs, of which 1,421,204,362 francs with Germany, 1,224,992,763 francs with France, 1,068,160,217 francs with Great Britain, 635,705,495 francs with the Netherlands, 589,344,991 francs with the United States of America.

*
* *

With the view of increasing the attraction to foreigners which a journey to Liége will afford, the Executive Committee will endeavour to help such persons as take an interest in studying industrial questions, to gain admission to those large metallurgical and coal-mining establishments which have contributed to render the Liége Basin one of the most important industrial centres of the world.

This novelty in connection with an Exhibition will certainly form a highly appreciated attraction, to say nothing of the many other reasons likely to draw visitors to Liége in 1905.

Grant fêtes are contemplated to be held in the principal cities of the country for the purpose of celebrating the 75th anniversary of National Independence with which the Exhibition is to coincide.

On the other hand, our City is a capital centre for excursions to the picturesque localities along the Meuse and its affluents, such as Spa, Chaudfontaine, Tilff, Esneux Argenteau, Namur, Dinant and the Ardennes.

Only a few hours' rail separates it from the other large cities of the country. In this connection we would note that the State Railway's circular travelling tickets offer great facilities for successively visiting **Brussels**, the capital, remarkable by its busy life and its monuments; **Antwerp**, the commercial metropolis of the country, so justly celebrated on account of the works of the great Flemish painters it contains; **Ghent**, well known by its textile industries and horticultural establishments; **Bruges**, the ancient Venice of the North, whose artistic treasures are incomparable; and the seaside resorts, of which **Ostend** is the queen.

*
* *

Although undertaken by solely private initiative, the Liége Exhibition has already secured the effective co-operation of the Belgian Government as well as the support of the City and Province of Liége.

It is placed under the High Patronage of His Majesty the King of the Belgians and the Honorary Presidency of H. R. H. the Court of Flanders.

H. R. H. Prince Albert of Belgium has accepted the effective Presidency over the Government Commission of the Exhibition.

The organising Committee already includes an official Delegate of the Government pending the early institution of the Commissionership-General of the Government.

This Exhibition is not organised with a view of profit, the sole object of its promoters being to honour the completion of large public works, the carrying out of which is calculated to ensure to the City of Liége the development commanded by its over-increasing importance, and to worthily commemorate the 75th anniversary of National Independence.

Their higher idea is also to make their country appreciated abroad and to contribute to win it the sympathy and esteem of other nations, which will always be the most valuable safeguard of Belgium's independence and free institutions.

The Executive Committee therefore warmly appeal to all convinced, as they are, that the character and object of the Liége Exhibition will secure numerous and important adhesions.

FOREIGN DEPARTMENT.

NOTIFICATIONS.

Simla, the 12th June, 1903.

No. 2703-I.A.—The Governor-General in Council is pleased to make the following rules regarding the remuneration of Veterinary Officers for professional services rendered to or for Native Chiefs and Nobles and Native Gentlemen of high position in a Native State:

1. When a Native Chief or Noble or Gentleman of high position desires the professional assistance of any Veterinary Officer in military employ, the latter will be at liberty to render it, provided that the due performance of his ordinary duties is not affected thereby. The special permission of the Inspecting Veterinary Officer of the Command will, however, be necessary when such assistance involves the absence of the officer from his duties for any substantial time.

2. The Native Chief, Noble or Gentleman may offer any Veterinary Officer of Government employed by him such fee as he thinks fit. The offer made will be reported by the Veterinary Officer through the Political Agent, or other Officer of Government exercising political functions in the State of which the said Chief, Noble or Gentleman is a resident, for the consideration of the Local Government within whose jurisdiction the Native State is situated. In reporting the offer, the Veterinary Officer will state the nature and extent of the professional assistance afforded, and the circumstances in which he rendered it. The Political Agent or officer forwarding the report will submit it with such remarks as he may consider necessary. The Local Government is required to satisfy itself that the fee proposed is not out of proportion to the assistance afforded and to the circumstances of the case, and has authority to sanction the acceptance of a fee not exceeding Rs. 1,000.

If the proposed fee exceeds this sum, the matter will be submitted with a full report, by the Local Government, for the consideration and orders of the Government of India.

3. The report prescribed in the preceding paragraph will not be required from a Veterinary Officer, when the fee does not exceed Rs. 16 a visit (exclusive of travelling expenses) for each animal attended, or Rs. 1,000 in the aggregate for repeated visits in the course of a year.

4. Rules 2 and 3 apply to an officer of the Civil Veterinary Department who has been permitted by the Local Government to render professional assistance to a Native Chief, or Noble, or Gentleman.

No. 2704-I.A.—The following despatch to His Majesty's Secretary of State for India with enclosures relating to the celebrations held at Delhi in December 1902 and January 1903 in honour of the Coronation of His Majesty the King, Emperor of India, is published for general information :

No. 58 (Internal), dated Simla, the 7th May, 1903.

From—The Government of India,

To—The RIGHT HON'BLE LORD GEORGE F. HAMILTON, G.C.S.I., His Majesty's Secretary of State for India.

WE have the honour to furnish Your Lordship, for the information of His Majesty's Government, with an account of the celebrations held at Delhi in December and January last in honour of the Coronation of His Majesty the King, Emperor of India. Copies of the official programmes are enclosed, and, as Your Lordship is aware, a commission to write an official history of the proceedings has been entrusted to Mr. Stephen Wheeler. As a narrative, therefore, this despatch is intentionally brief, and it relates more particularly to the political aspects of this great event.

2. It was in November 1901 that the intention to hold an Imperial Durbar with the above-named object was first publicly announced. The occasion was the notification of the issue of invitations by His Majesty the King-Emperor to a limited number of Indian Chiefs to attend his Coronation in England ; and it was at the same time explained that in order to afford the remaining Chiefs, who could not be present in London, an opportunity of testifying their loyalty to his Throne and Person, His Majesty had instructed the Viceroy to hold a celebration in India at a date subsequent to the English ceremony. In February 1902 a Proclamation was published in the *Gazette of India*, naming Delhi as the place and the 1st January, 1903, as the date of the proposed gathering : and this was followed by invitations to attend addressed by His Excellency the Viceroy to the Heads of Local Governments and Administrations and to the Ruling Chiefs of India. In September

1902 the news was made public that His Majesty had graciously deputed His Royal Highness the Duke of Connaught to represent the Royal Family upon this momentous occasion: and the utmost satisfaction was everywhere expressed at this evidence of the warm personal interest taken by His Majesty in the approaching ceremony and at the high compliment to India which the choice implied.

3. Throughout the summer, and still more after the successful celebration of His Majesty's Coronation in London on 9th August, 1902, our preparations for the forthcoming events in India continued apace: and before the end of the year they had reached so advanced a stage that the most important functions had been several times rehearsed on the spot, and there remained only the arrival of the principal actors on the scene, and the occurrence of favourable weather, to ensure the triumphant realisation of our plans.

4. By the 27th December the principal Ruling Chiefs of India, many representatives of Foreign Powers, the leading officials of our Government, and a strong force from the Indian Army had assembled at Delhi, and on the 29th of the month, the ceremonies were inaugurated by the State Entry of His Excellency the Viceroy and Their Royal Highnesses the Duke and Duchess of Connaught. His Excellency arrived shortly in advance of Their Royal Highnesses. He was met at the station by the Ruling Chiefs, foreign representatives, and leading officials, and, attended by them, he received Their Royal Highnesses, who had journeyed direct from Bombay. The route of the Entry lay through the principal streets of the city. Preceded by their escorts, the Imperial Cadet Corps, the Viceroy's Body Guard, and their respective staffs, His Excellency and Their Royal Highnesses headed the Procession on magnificently appointed State elephants. Then followed 51 Ruling Chiefs similarily mounted and riding two abreast, His Royal Highness the Grand Duke of Hesse, whose presence at Delhi, as the guest of the Viceroy, was heartily welcomed as an additional evidence of the interest of the Royal family, the Governors, Lieutenant-Governors and Chief Commissioners of every province of the Indian Empire, and the Commander-in-Chief, each with his escort, the Members of the Viceroy's Council, the Lieutenant-General Commanding Bengal, and Chiefs from Baluchistan and the North-West Frontier, while the elephant retinues of the Chiefs brought up the rear. In this order the procession slowly passed under a cloudless sky through the avenues of the city. The Ruling Chiefs who did not join in the Procession were accommodated in a suitable stand in front of the Town Hall. The galleries of the Jumma Musjid had been placed by the courtesy of the Managing Committee at the disposal of the Viceroy for the accommodation of English and European guests. The streets were lined throughout their entire length by troops, and behind the troops there was an immense concourse of spectators. It would be safe to say that no such crowd of persons has ever before been assembled at Delhi. Traffic had been suspended from an early hour, and for four miles the streets, the mosques, the temples, specially erected stands, and every roof and balcony commanding a view, were thronged. Portraits of Their Majesties and loyal mottoes were freely displayed in the native quarters. The brilliance of the spectacle was only equalled by the order and enthusiasm that prevailed. The welcome accorded to Their Royal Highnesses was particularly marked, the affection with which their former stay in this country is remembered enhancing the cordiality of the greeting which all classes were eager to pay to such illustrious representatives of the Royal House. After nearly two hours the Procession, which had passed out of the city, reached its destination in the various Camps, and dispersed.

5. Continuing with the chronological order of events, on the 30th December the Viceroy opened an Exhibition of Indian Art in the Kudsia Gardens. The exhibits were contained in a handsome building specially erected in the Mogul style, and the collection and arrangement had been carried out with great ability by Sir George Watt. The results exceeded our most sanguine anticipations. Unique specimens of ancient art, mostly chosen from the treasures of Native States and now shown to the public for the first time, were exhibited side by side with a collection of the best art wares of the present day, the object being, as explained in the speech of His Excellency the Viceroy, a copy of which we enclose, on the one hand, to demonstrate the capabilities of indigenous art and, on the other hand, to raise the existing standard by a comparison with the best models of the past. Our sincere thanks are due to the many Chiefs and Native gentlemen who contributed to the loan collections and who stimulated competition by the offer of rewards to the competing artizans. Many of the latter, together with selected Native officials from all parts of the country, were assisted to visit the Exhibition; and to the public at large, we are glad to say, it afforded considerable attraction. Forty-eight thousand persons paid for admission, and purchases to the value of Rs. 3,62,332 were made. As permanent results, we are hopeful that a much needed impetus may have been given to many deserving branches of Indian art, and that craftsmen and patrons alike will be encouraged to revive the ancient traditions and to adapt them to the requirements of modern life.

6. Omitting the Durbar, to which we shall refer later, the next important event was the Grand Chapter of the two Indian Orders of the Star of India and the Indian Empire held on the night of the 3rd January in the Diwan-i-Am, or Hall of Public Audience, in the Palace Fort of the Emperor Shah Jehan. This magnificent structure had, without the smallest injury to or alteration of its own features, been enlarged by temporary additions to three times its original size, and had been connected for the occasion by a covered passage with the white marble Diwan-i-Khas, or Hall of Private Audience. So skilfully were these additions made under the supervision of Colonel J. W. Thurburn, R. E., Secretary to the Punjab Government in the Public Works Department, and Rai Bahadur Ganga Ram, Superintendent of Works, that a stranger could hardly distinguish the new building from the old—even in the blaze of light in which the ceremony was held.

The Chapter was attended by 11 Knights Grand Commanders of the Star of India, 15 Knights Grand Commanders of the Indian Empire, 14 Knights Commanders of the Star of India, and 16 of the Indian Empire, 41 Companions of the former and 110 of the latter Order. It was by far the largest Chapter that has ever been held in India. Nearly 2,000 spectators were present. No less than 74 admissions or promotions in the Orders were made. Among those so honoured were the Chiefs of Charkhari, Cochin, Miraj (Senior Branch), Nabha, Shahpura, Sirmur, Sirohi, Tehri, and Travancore, the Khan of Dir, the Mirs of Hunza and Nagar, and the Mehtar of Chitral.

On the night of the 6th January, the Palace was again the scene of a State Ball, which, from the number of distinguished persons present and the unique surroundings, has had no equal in this country. Most of the Ruling Chiefs attended, and in all more than 4,000 persons were present.

7. The 4th January being Sunday, Divine Service was celebrated at a specially arranged State ceremony, held in the open air, by the Metropolitan, assisted by the Bishop of Lahore. It was attended by His Excellency the Viceroy, Their Royal Highnesses, and all the officials and European troops present in Delhi.

8. On the 8th January, a Grand Review of the whole body of troops assembled was held on a level plain in the vicinity of the Camps. There were present about 34,000 troops of all ranks under His Excellency the Commander-in-Chief. Stands were erected for the accommodation of spectators, and many thousands also attended in carriages, on horseback, and on foot. His Excellency the Viceroy rode on to the ground at 11 A.M., with Their Royal Highnesses the Duke of Connaught and the Grand Duke of Hesse, and took the salute as the troops marched past. The Review was in all respects a most brilliant success, and produced a marked effect on the many warlike classes present. The Imperial Service Troops were well represented, the Contingents from Alwar, Bhopal, Bikaner, Gwalior, Jind, Nabha, Patiala, and Sirmur being led past the saluting point by their Chiefs or other members of the ruling family. The enthusiasm created by the appearance of Chiefs of all ages, from the youthful prince who now occupies the Patiala *gadi* to the venerable figure of the veteran Sikh Chief of Nabha, will long be remembered by both Chiefs and people, and must tend to strengthen the military ties that unite the different constituents of the Indian Empire.

At Lord Lytton's Imperial Assemblage in 1877, an improvised Review of the Retainers of Native Chiefs preceded the Military Review. On the present occasion a separate morning was set apart for the Retainers' Review, and this ceremony, which took place on the 7th January, was one of the most picturesque and interesting of the celebrations of the fortnight. Some 40 States sent contingents, and great trouble had been taken to give a faithful representation of the old fashioned arms and equipment that are now passing out of use.

9. Owing to the enormous extent of ground covered by the various Camps, and to the press of daily and even hourly engagements, it was impossible for His Excellency the Viceroy to receive and return the visits of the unprecedented number of Chiefs and Nobles who were present at Delhi. In order, however, to provide an opportunity of meeting all these distinguished personages, and to enable them to meet each other, two parties were given by His Excellency for the Indian guests—one at the Kudsia Gardens on the afternoon of the 2nd January for official guests other than Chiefs, and one for Ruling Chiefs on the evening of the 9th January at the Viceroy's Camp.

On the latter occasion an Investiture was held, at which His Royal Highness the Duke of Connaught, as Great Master of the Most Honourable Order of the Bath, invested the Nizam of Hyderabad with the Grand Cross of that Order, an honour which was intensely appreciated by His Highness, and the Maharaja of Kolhapur with the Grand Cross of the Royal Victorian Order. His Royal Highness also presented gold medals to various Chiefs who had attended His Majesty's Coronation in England, and, by his Majesty's Command, His Excellency the Viceroy conferred the honour of Knighthood on several gentlemen.

10. Apart from official functions, the public rejoicings assumed various forms. Thus, on the 2nd January, there was an illumination of the city and a display of fireworks. A military assault-at-arms was held on the 3rd and the 5th January; and on most days there were numerously attended athletic contests, such as polo, football, and hockey, for which prizes were presented by the Viceroy. For the first time in Indian history might be seen on the same ground the game of polo, as still played in the remote mountain States of Hunza and Nagar on one side of India and Manipur on the other, and as borrowed from them and subsequently developed by the English both in India and in England. Concerts also were given by the military massed bands numbering 2,000 performers under the direction of Captain G. B. Sanford.

11. From careful enquiries made at the time, we estimate that in addition to the normal population of the city, which was returned at the recent Census as 208,000, not less than 173,000 persons were attracted to Delhi by the Durbar. These figures afford a striking contrast to the 68,000 who were reckoned as having been drawn to Delhi by the Imperial Assemblage of 1877. List of the individuals invited by Government or attending officially will be found among the enclosures to this despatch; but the following additional details will be of interest. Of the principal Ruling Chiefs 103 were invited and 100 attended. Minor Chiefs were, as a rule, not invited; and any, to whom for financial reasons the visit to Delhi might have proved burdensome, were excused. In view of the recent heavy calls that had been made upon some of the Chiefs, mainly in consequence of famine, we were careful to explain that there was no occasion for ostentatious display, and in a few cases we helped to relieve a temporary encumbrance by advancing the necessary funds.

Invitations to attend or to send representatives were also addressed to His Majesty the Shah of Persia and His Majesty the King of Siam, and to Their Highnesses the Amir of Afghanistan, the Sultan of Maskat, and the Maharaja-Dhiraj of Nepal. These States were eventually represented by General Chowphya Surawongse, the chief personal Aide-de-Camp of the King of Siam, Colonel Muhammad Ismail Khan, the Amir of Afghanistan's Envoy with the Viceroy, the son and heir of the Sultan of Maskat, and the Prime-Minister of Nepal. An invitation to depute a representative was also addressed through His Britannic Majesty's Minister at Tokio to the allied Government of His Imperial Majesty the Emperor of Japan. The result was a Mission headed by General Baron Yasukata Oku, who, we have reason to believe, appreciated the military manœuvres which preceded the Durbar as highly as did the Indian Army his presence among them.

We also felt that the occasion was one in which it was eminently desirable that our fellow-subjects in the colonies of Australia and South Africa with whom we have so many connections, and who are certain in the future to be brought into much closer contact with India, should be afforded an opportunity of participating. The invitations which the Viceroy addressed to their Governments were responded to by the deputation of Sir Richard Baker, President of the Federal Senate, from the former, and Sir Richard Solomon, Attorney-General of the Transvaal, from the latter.

Their Excellencies Colonel Sir Eduardo Galhardo, K.C.I.E., Governor-General of Portuguese India, and Mons. Victor Lanrezac, Governor of the French Settlements in India, and the leading members of the Foreign Consular Body in India, also honoured us by assisting at the ceremonies as our guests.

Further, with a view to giving to the world at large a full, immediate, and unbiassed account of the celebrations, we invited the leading journals of the United Kingdom and India to depute their representatives to attend the Durbar as our guests; and we extended similar hospitality and facilities to any other influential journals which applied to us. We have every reason to be grateful to those who profited by our invitation, for the admirable accounts of our proceedings which they circulated by telegraph and post to all parts of the world.

12. In inviting the attendance of the heads of Local Governments and Administrations, we intimated that they should be accompanied by a limited number of the members of their administration, leading officials, native noblemen and gentlemen, and heads of representative bodies.

All the Europeans thus invited were treated as the personal guests of the head of the province or administration to which they belonged and were accommodated in the head-quarters or Central Camp of the province. The Ruling Chiefs with the Political Officers attached to them were encamped in separate camps grouped territorially, and the native noblemen, officials and others were for the most part in separate Provincial Camps, while some secured accommodation in the city and civil station of Delhi.

The Central Camps, including those of His Excellency the Viceroy, the various Local Governments and Administrations, the Commander-in-Chief and the Provincial Commands, and the Foreign and Press Camp, occupied a site historic in the annals of 1857, below the famous Ridge. The population of these camps alone, including followers, numbered over 13,000; and considerations of space and sanitation demanded the location elsewhere of the Provincial Camps with their 35,000 inhabitants, of the Military Camps with their strength of 56,000, and of the miscellaneous camps, which sheltered another 12,000. The most convenient sites were selected, but, even so, they extended over an area of 40 square miles, while the remaining 57,000 of additional population found quarters in the city and civil station. A map, showing the location of the different camps with the railways and roads, is one of the enclosures with this despatch.

13. It will be readily understood that an encampment of this size entailed elaborate preparations. Many thousands of tents had to be collected. Camp sites had to be levelled and 40 miles of new roads were constructed. A 2' 6" gauge light railway, 7 miles in length, was built to connect the city with the Central Camp and the Durbar Amphitheatre, and carried 102,098 passengers from first to last, exclusive of 850 holders of season tickets: extensions were also made from existing main lines to facilitate the delivery of the heavy material for the Camp. The existing water-supply was supplemented by 72 reservoirs, 45 wells, and 38 miles of pipes: and 2,475 persons were employed as a special sanitary staff. Special telegraph, telephone, and postal services were organised; and the Central Camp, the Fort, and the principal streets of the city were lighted by electricity, plant which had already been ordered by our Military Department, for the lighting and ventilation of barracks, being utilised for the purpose. The food-supply was catered for partly by private enterprise, and partly by the Supply and Transport Department. For the Durbar itself a temporary Amphitheatre in white and gold was erected, according to a plan prepared by the Viceroy, with the assistance of Sir Swinton Jacob. This structure, which turned out to be pre-eminently well adapted for its purpose, and which was also utilised for the Retainers' Review and the military assault-at-arms, was designed exclusively in the Indo-Saracenic, or Mogul style, every detail being copied from buildings at Delhi or Agra. It was erected on approximately the same site as Lord Lytton's Amphitheatre in 1877; but it was entirely different in size and shape, and it held three times the number of spectators, since it provided seating and standing accommodation for no fewer than 16,000 persons. A plan of the Amphitheatre, showing the seating arrangements, is enclosed.

The whole of the arrangements were under the supervision of a Central and a Executive Committee. The former was the initiatory and controlling authority, and its decisions were carried out by the Executive Committee or by the Government Department concerned. Thus the Home Department undertook the control of the Police arrangements, the Military Works Department that of the electric installation, and the Military Department that of the markets managed by the Supply and Transport Corps, while the control of ceremonies remained with the Foreign Department.

To make provision for the peace and the maintenance of good order at the Coronation Durbar, and to provide a simple and speedy procedure for dealing with the various petty offences that were likely to occur in the camps, a short Act, called the Delhi Durbar Police Act, 1902, was passed by the Punjab Legislative Council, and of this we enclose a copy.

In other ways we received valuable assistance from the Punjab Government which deputed its Sanitary Commissioner to take charge of the Sanitation and Conservancy of the Camps, its Inspector-General of Police to control the Police arrangements and its Chief Engineer to supervise the buildings, water-supply, and roads. The further special agency included a Camp Officer in executive charge of each Camp; a Special Magistrate for the Central Camp, and one for each group of Provincial Camps; an Executive Sanitary Officer, a Health Officer, and a Plague Officer; a Railway Officer for the construction and management of the light railway; and a staff of Attachés to attend to the details of the various ceremonies and to the reception of the Chiefs.

14. How successful were the exertions of all these different agents, and how fortune waited upon their enterprise, may be illustrated by the fact that, so far as we are aware among the vast crowds temporarily assembled at Delhi, with few of the advantages offered by great European cities, not a single serious accident occurred. The proceedings were also favoured with the most agreeable weather, rain only falling upon a single night and then only in sufficient quantity to lay the dust and to add greatly to the comfort as well as to the spectacular effect of the great Military Review. Though the temperature was cold at night in the concluding weeks of December, it continued to get warmer every day, and throughout the fortnight of official celebrations may be said to have been perfect.

15. From this description of the preliminaries, we now pass to an account of the Durbar itself. Of the picturesque side of this memorable gathering we need say but little. The long lines of troops: the wide plain filled with a multitude of all races of the Empire: the great assembly in the Amphitheatre, where the Chiefs, Governors, Colonial and Foreign representatives, and leading officials occupied seats on either side of the Viceroy's Dais; the emotion stirred by the entry of the small band of Mutiny heroes; these have all been described in the columns of the Press. Similarly full justice has been rendered to the combined magnificence and variety of a display which brought together, in their national dresses or garbs of State, figures so widely separated by race and residence as the Arab Sheikhs of the Aden Protectorate, the Baluch and Pathan Chieftains of the Indian border, the heirs or representatives of the States of Nepal, Sikkim, and Maskat, and the picturesquely clad Shan Chieftains from the Salwein and the Mekong. To Muhammadans the day was the anniversary of the Id-ul-Fitr, and to allow of their devotions, the Durbar was fixed for noon. Punctually to the hour His Excellency the Viceroy drove into the arena escorted by his Body Guard and the Imperial Cadet Corps, and ascended the Dais, whither he had been preceded, in a separate procession, by Their Royal Highnesses the Duke and Duchess of Connaught. The Herald then advanced on horseback accompanied by his trumpeters, and by command of the Viceroy read aloud the Proclamation, announcing the Coronation of His Majesty the King, Emperor of India. On the conclusion of the Proclamation, the Royal Standard was unfurled to the sound of the National Anthem and an Imperial Salute of 101 guns. His Excellency then addressed the Assemblage, gathered, as he said, that day to symbolise and give expression to the united loyalty of the Empire to His Majesty's mighty and benevolent rule. The announcement of the gracious message which His Majesty had desired to be conveyed to his Indian people was received with enthusiastic cheering, and repeated applause greeted the Viceroy's references to the Princes and peoples of India, to the great future lying before the country, and to the favours which the Government desired to associate with the occasion. Translations of His Excellency's speech in Urdu had been distributed to the Ruling Chiefs and Native gentlemen on their arrival at the Amphitheatre, so that they might more readily follow the proceedings.

At the conclusion of the address, of which copies in English and Urdu are included in the enclosures to this despatch, three cheers for His Majesty were given by the audience and repeated with overpowering effect by the troops and spectators outside. The Ruling Chiefs were then presented to His Excellency the Viceroy and His Royal Highness the Duke of Connaught. This proceeding, which was in reality a reversion to the time honoured practice of Indian Accession Durbars, had been introduced by the Viceroy and specially explained by him to the Chiefs, in order to enable them to play a personal part in the proceedings, and to testify individually their sentiments of loyalty and devotion to the Throne by tendering to the Representative and to the Brother of His Majesty with their own lips the congratulations and heartfelt vows of attachment evoked by the moving character of the scene, in which they thus became chief actors instead of mere spectators. The suggestion was cordially welcomed by the Chiefs as soon as they realised its import. The whole of them came forward, without exception, attended in some cases by a son or a Minister, and in accents of unmistakeable pleasure and sincerity offered their dutiful and loyal congratulations to His Majesty on his accession to the Throne, and expressed their satisfaction at being present at the great and notable solemnity held to proclaim the fact to the Princes and people of India. This ceremony, which was perhaps the most impressive feature of the Durbar, brought the latter to a close.

16. On the evening of the same day a State Dinner was given by His Excellency the Viceroy in his Camp to the principal official guests, and the health of His Majesty the King-Emperor and of His Royal Highness the Duke of Connaught were proposed by His Excellency, and enthusiastically received. We enclose copies of the speeches made by the Viceroy on this occasion and of the Duke of Connaught's reply.

17. His Excellency the Viceroy and Their Royal Highnesses the Duke and Duchess of Connaught left Delhi on Saturday, the 10th January, the same ceremonies being observed at their departure as on their arrival.

18. There thus came to an end the most imposing ceremony, or rather series of ceremonies, that has ever been held in India in British or perhaps in any times. The conception of the Durbar, the control of the arrangements and supervision of the thousand and one details which were essential to success, were the work of the Viceroy, who made himself responsible for the entire undertaking, and visited Delhi no fewer than four times in the nine months preceding the Durbar. As regards the policy which underlay the conception and inspired the execution of a scheme with which we regard it as a privilege to have been associated, we cannot better describe it than in His Excellency's own words during the recent Budget Debate on the 25th March 1903:

"But to me, and I hope to the majority of us, the Durbar meant not a panorama or a procession. It was a landmark in the history of the people, and a chapter in the ritual of the State. What was it intended for? It was meant to remind all the Princes and peoples of the Asiatic Empire of the British Crown that they had passed under the dominion of a new and single Sovereign, to enable them to solemnise that great and momentous event, and to receive the Royal assurance and greeting. And what was its effect? They learned that under that benign influence they were one, that they were not scattered atoms in a heterogeneous and cumbersome mass, but co-ordinate units in a harmonious and majestic whole. The scales of isolation and prejudice and distrust fell from their eyes, and from the Arab Sheikhs of Aden on the west to the Shan Chiefs of the Mekong on the borders of China, they felt the thrill of a common loyalty and the inspiration of a single aim. Was there nothing in this? Is it nothing that the Sovereign at his Coronation should exchange pledges with his assembled lieges, of protection and respect on the one side, of spontaneous allegiance on the other? Is it nothing that the citizens of the Empire should learn what that Empire means? Even if we take the rest of India, which could not be present at Delhi, but held its own rejoicings in its own place, is it nothing to lift an entire people for a little space out of the rut of their narrow and parochial lives, and to let them catch a glimpse of a higher ideal, an appreciation of the hidden laws that regulate the march of nations and the destinies of men? I believe that the Durbar, more than any event in modern history, showed to the Indian people the path which, under the guidance of Providence, they are treading, taught the Indian Empire its unity, and impressed the world with its moral as well as material force. It will not be forgotten. The sound of the trumpets has already died away. The Captains and the Kings have departed. But the effect produced by this overwhelming display of unity and patriotism is still alive, and will not perish. Everywhere it is known that upon the throne of the East is seated a power that has made of the sentiments, the aspirations, and the interests of 300 millions of Asiatics a living thing, and the units in that great aggregation have learned that in their incorporation lies their strength. As a disinterested spectator of the Durbar remarked, 'Not until to-day did I realise that the destinies of the East still lie, as they always have done, in the hollow of India's hand.' I think too that the Durbar taught the lesson not only of power but of duty. There was not an officer of Government there present, there was not a Ruling Prince, nor a thoughtful spectator, who must not at one moment or other have felt that participation in so great a conception carried with it responsibility as well as pride, and that he owed something in return for whatever of dignity or security or opportunity the Empire had given to him."

19. The feelings of loyalty and devotion to the Throne and of pride in the might of an Empire, of which they realised that they were integral parts, were clearly testified by the remarks made by the Chiefs as they tendered to the Viceroy and His Royal Highness the Duke of Connaught their felicitations and assurances of homage to the Crown. Sometimes a Chief had rehearsed a short speech, but the power of the moment was upon him, and his formal utterance melted into a simple but heartfelt and obviously sincere expression of the pride and pleasure that he felt in assisting as a partner in the toils and joys of Empire, and in tendering his congratulations to the Sovereign. Could any studied oration have been more eloquent than the few words of the aged Raja of Nabha?

"Now" said he, I can die in peace, as I have discharged the three duties of a true Sikh,—I have lived according to the precepts of the Gurus, I have aided the State with my sword, and now I have paid my personal homage to my Sovereign."

Her Highness the Begam of Bhopal, who took her place, veiled, among the other Chiefs, presented a written address in which, after referring to the auspicious circumstance in the eyes of Muhammadans that the Durbar should coincide with their Id,

she, "as the well-wisher and sincere admirer of the British Paramount Power," assured Government, "on this historic occasion, not only of the fidelity, devotion and affection of myself, my sons, my people and of the women of my State, but also of the loyalty of the whole Muhammadan population of India, for faithfulness and obedience to the Ruler are both strictly ordained by the Muhammadan religion."

We could multiply such quotations from every speech made that day, but as these will be collected in the Official History, we will only now refer to an address subsequently delivered by His Highness the Nizam on his return from Delhi to Hyderabad, in which he said :—"It was a source of great pleasure to me that I was enabled to take my part in the Coronation Durbar of His Majesty the Emperor of India (may his generosity last for ever), and after the custom of my ancestors to show, in a simple, straightforward, and soldierly manner, by word and deed, my historical friendship and loyalty. * * * I also count this journey particularly fortunate in that it enabled me to meet at Delhi my contemporary Chiefs and high officers."

20. We trust we have brought home to Your Lordship the extent to which the ceremony of the Durbar was regarded by the Ruling Chiefs and by those who took part in it as a solemn and almost religious observance, and also as a great ceremonial of

Imperial and awe-inspiring significance. The occasion was wholly dissevered from the ideas or associations of an ordinary Durbar. It was felt that this was the Sovereign's Darbar, held by his orders for the celebration of the most auspicious event in his reign. Accordingly it was the message of the Sovereign that excited the loudest applause at the Durbar. Every mention of his name evoked a similar demonstration, while the reception accorded to his Royal Brother was pregnant with the same lesson. No one who was present can have failed to carry away the conviction that the most potent force in the union of Great Britain with India is the veneration and affection that are entertained for the Throne.

If such was the immediate effect of the ceremony on those Princes and Chiefs of India whose lives had been passed under the immediate hegemony of the British Government, its influence upon those who have more recently come under our sway, or who are not so intimately connected with our rule, was even more marked. The Afghan Envoy at the Durbar enquired if the representatives of foreign Powers were present, for, said he, this assembly, resembling the final gathering at the Day of Judgment, could only bring home to them the futility of opposing a Power, which could thus assemble without force or compulsion, but simply by the ties of loyalty and affection, an entire universe of peoples and creeds. Much the same ideas were expressed by Prime Minister of Nepal; while the representatives of the distant Gilgit tribes laughed when they thought of the day when they had attempted to pit their puny strength against even a feudatory of such a Power.

The effect of the display of military power at the Review was no less remarkable, and undoubtedly impressed the representatives of foreign Powers who were present. We attach special importance to the impression caused by the eagerness of the Chiefs to appear in public at the head of their troops as feudatories of the Empire. The interest taken by the Chiefs as a body in the contingents of the Imperial Service Troops was noticeable and cannot fail greatly to promote this most useful and patriotic movement. Their appearance on parade was highly creditable, so much so, indeed, that the Baluch Chiefs remarked that they only differed, if at all, from the regular army in the greater perfection of their equipment and drill.

We believe that these impressions were no mere transient phases of sensuous emotion, but that the striking incidents, of which they were the privileged spectators, and the general sense of well ordered power and popular contentment, of good governance on the one hand and identity of interest on the other, which marked the whole proceedings, will continue to produce their effect on all who were there present long after the Delhi Durbar has passed away, save as the treasured memory of a splendid and ennobling scene.

21. There is still another sense in which, as His Excellency anticipated, the Darbar has achieved a most beneficial result, and has had a far-reaching effect. The growing power of the railway, of the press, and other means of communication, has done much to bring the different parts of India into contact with one another, and to obliterate their divergences; but on no previous occasion have so many of the Chiefs and nobles and representative persons of India of all races and religions had an opportunity of meeting together, not for an hour or a day, but for a period of weeks. Much was done by the friendly exchange of ideas at social gatherings and official functions to break down the barriers of ignorance or distrust which have tended to keep different classes and individuals apart, and have proved a serious obstacle to the cohesion of the body politic. That the Chiefs themselves thoroughly appreciated the opportunities afforded is clearly shown by the remarks of His Highness the Nizam already quoted, and by messages of a similar character which have reached the Viceroy from many other quarters. Nor is it the Chiefs alone who benefited in this way. Advantage was taken of the occasion by our civil and military officers of different Provinces who were assembled for the Durbar, and who are precluded by their duties at ordinary times from meeting, to discuss together many matters of the highest administrative importance, and to compare ideas on points of policy or practice in a way which, within the narrow limits of their own Provinces, would have been impossible. We are confident that there was not an officer present, British or Indian, who did not feel a sense of pride at serving the Government of an Empire so vast and beneficent, or who did not carry away with him the stimulus of an added zeal to give of his best to the service of his Sovereign and country.

22. But the Durbar did not produce its effect only on those who were able to attend. We have reason to believe that the great mass of the people of India, whether in British territory or in the States under His Majesty's protection, were profoundly impressed by the report of the ceremonies that took place, and that their imaginations were not untouched by the great idea of which these were but the outward form. Local celebrations were held everywhere throughout the country on the same day; and even the humblest participant can hardly have failed to entertain some conception of a national unity achieved

under the firm but kindly sway of the British sceptre, and carrying with it the privileges of common citizenship in a world-wide Empire. In other ways too, the event was brought home to the minds of the populace. By an act of grace 16,188 prisoners were released from British Indian Jails, and similar clemency was shown in the majorty of the Native States. Nor must we omit to mention in this connection the impetus which was given to internal trade, more especially in the Native States by the requirements of an assembly on so vast a scale as that recently held, and for those of the very numerous local celebrations.

23. Upon the effect of the Durbar beyond the limits of India, we are not in a position to pronounce with authority, but from the references to it contained in the newspapers of all countries, we are entitled to believe that it was very great and that the outside world has thereby been enabled to form a more correct idea of the scale and polity of our Indian Empire, to judge of the difficulties that have been met and surmounted in its creation, and to realise the power and prestige which must attach to the State, that for the first time in history has not only succeeded in moulding into a single whole the scattered and often warring atoms, which hitherto formed the congeries of countries and peoples included within the Indian continent, but has also by the justice and high purpose of its administration infused the entire mass with a spirit of devotion to a common Sovereign.

24. Of the honours, favours, and concessions, by which the occasion was marked, a complete list will be found in the *Gazette Extraordinary* of the 1st January. We have already alluded to the promotions in, and appointments to, the Orders of the Bath, the Star of India and the Indian Empire, and to the honours of Knighthood conferred by His Majesty. His Majesty was graciously pleased also to award 15 Kaiser-i-Hind Medals of the 1st class, and 18 of the 2nd class. Further honours, reserved for Chiefs only, consisted of the addition of 2 guns to the permanent salute of the Nawab of Janjira, the grant of permanent salutes of 9 guns to the Sawbwas of Keng Tung, Mong Nai and Hsi Paw, who are the three principal Shan Chiefs, and the grant of personal salutes of 9 guns each to the Chiefs of Bhor and Danta and to Nawab Sir Amir-ud-din Ahmad, Khan Bahadur, K.C.I.E., of Loharu.

The British officers of the Indian Army were intensely gratified by the grant to them of that designation, while the Native officers equally appreciated the announcement that six of their number would be annually appointed as orderly officers in attendance upon His Majesty. Other favours to the Army included the addition of 20 appointments to the first class and 60 to the second class of the Order of British India, the grant of honorary rank, on retirement, to Native officers in possession of that decoration, the grant of extra meritorious service medals and extra long service and good conduct medals, with gratuities in each case, money grants to all British and Native Corps, the grant of special privileges to the Native Mountain Artillery, and the release or mitigation of punishment of various classes of military offenders. His Highness the Raja of Nabha received the honorary rank of Colonel of the 14th (Ferozepore) Sikh Infantry, and His Highness the Maharao of Kota the honorary rank of Major in the Deoli Irregular Force, whose head-quarters adjoin his State.

Various civil titles were conferred by His Excellency the Viceroy on distinguished Native gentlemen, and in six very special cases grants of land or *inams* were bestowed. We have already alluded to the release of prisoners in British India. In the Viceroy's speech, in addition to certain measures of financial relief to those Native States which had suffered from famine, was foreshadowed the very considerable reduction of taxation that was definitely announced in the Budget three months later, and that will always be associated by the people with the year of His Majesty's Coronation.

25. We should be guilty of an inexcusable omission if we did not acknowledge the devotion and ability with which the many duties connected with the Durbar were discharged. From first to last the preparations proceeded rapidly and harmoniously, every programme for the Durbar fortnight was carried out without a hitch, and the difficult task of winding up the Camp was expeditiously and satisfactorily performed, the final meeting of the Committees being held on the 10th April.

Where all did so well, it is difficult to particularise; but the following names appear to call for particular notice. Our cordial thanks are due to the Central and Executive Committees. Of the former, we must specially mention Sir Hugh Barnes, the President, and Major-General G. Henry: and of the latter, Captain A. D. Bannerman, the Secretary, and Major H. Hudson. Mr. Gordon Walker and Major M. W. Douglas combined their membership of these Committees with other arduous duties as Commissioner and Deputy Commissioner of Delhi: similarly Colonel H. F. Lyons-Montgomery of the Executive Committee was also the Officer of the Supply and Transport Corps, who was responsible for the very complete Commissariat arrangements.

To Lieutenant Colonel C. J Bamber, as Sanitary Commissioner, and Lieutenant-Colonel H. B. Thornhill, as Executive Sanitary Officer, is chiefly due, under Providence, the immunity of the Camp from any serious outbreak of disease, though plague was rife over the greater part of the Continent, and, but for the precautions taken, there would certainly have been danger of cholera. From the time the Camp was started in July 1902, there were altogether ten cases of plague of which nine were imported, but the arrangements effectually prevented the disease from taking hold.

Rai Bahadur Ganga Ram was in executive charge of the numerous public works including the building of the Amphitheatre, the structural additions in the Fort, the construction of roads, and the provision of the water supply. The electric installation for the Fort was undertaken by Messrs. Osler & Co., and that for the Central Camp by Messrs. Kilburn & Co. The latter included 100 arc lights, and more than 8,000 incandescent lamps disposed among the various tents. We can pay no higher compliment to the efficiency of the work done by the firm under the supervision of Major A. Mr. Stuart and Captain C. O. Halliday, R. E., than to say that during the month for which the light was employed there was not a single failure.

The postal arrangements included 16 special offices and numerous pillar boxes, and were satisfactorily carried out by Rai Bahadur Daulat Ram, C I.E., under the supervision of the Postmaster-General of the Punjab. The Telegraph Department, under Mr. O Lees, opened 11 telegraph offices and a telephone exchange with 25 branches to the more important camps ; it gave general satisfaction, the facilities afforded to the Press being, we understand, particularly appreciated.

The Punjab Police under the orders of Mr. C. Brown, the Inspector-General, added to their well-earned reputation by the excellence of their arrangements for the regulation of traffic and the prevention of disorder and crime. Their powers of suppression were never called into action, as disorder and crime were non-existent.

The light railway constructed and managed by Captain H A. L. Hepper, R.E, proved of the greatest service. The efforts of the main lines to meet the very heavy traffic incidental to the Durbar also deserve recognition. Crowding and some delay were inevitable, and the difficulty of preventing these was enhanced by the awkward and confined situation of the Delhi main station, into which most of the traffic had perforce to be brought. The experience gained will doubtless lead to improved arrangements on any future occasion of the kind, while the remodelling of the station on the present occasion has been a great advantage to what has now become the centre of the Indian Railway system.

We have already alluded to the striking success with which the programmes of the various ceremonies were carried out. Sir Hugh Barnes was in immediate charge of all matters of ceremonial. Of the staff which ably assisted him, he has specially brought to our notice the name of Mr. R. Hughes-Buller of the Indian Civil Service. The ticket arrangements were successfully undertaken by Mr. W. E. Jardine, also of the Civil Service.

Of the amusements provided for visitors, the Club and the Polo Tournament, organised by Colonel the Hon'ble E. Baring, Military Secretary to the Viceroy, were deservedly popular.

Interesting notes by the officers in charge of the various branches of the arrangements are included among the enclosures with this despatch.

26. As regards the expenditure from public revenues on the Durbar, we are not yet in a position to give final figures for certain of the heads included in the actual cost. Our most recent calculations were stated in paragraphs 138 to 140 of Part II of the Financial Statement for 1903-04, where it was shown that the aggregate net charge to Imperial Revenues seemed unlikely to exceed Rs. 12,61,000, while the net charge against Provincial Revenues was estimated at Rs. 14,83,000 : or a total under the two headings of about £180,000. It is possible that the credit side of the account may be increased by further recoveries, and a close scrutiny of the charges debited to the Durbar, which has been taken in hand, may show that some items ought properly to be debited to ordinary heads of expenditure. On the other hand, some difficulty has been experienced in distributing the total military expenditure, which has shown a considerable excess over the original forecast, between the Durbar and the manœuvres that preceded it ; and we have not yet completed the enquiries which will enable us to apply a fair and reasonable principle of division.

27. In accordance with His Majesty's Command special gold and silver medals were struck in honour of the occasion, the head of His Majesty being depicted on the one side, and a suitable inscription in the Persian character on the other. We are now engaged in distributing these medals to the principal official participators in the Durbar, and to

selected officers and men of the British and Indian armies who were present. The gold medals are for presentation to the Ruling Chiefs and a few high officers of Government. The total of the silver medals is about 2,500.

28. In a supplementary despatch we propose to send, for Your Lordship's information, copies of reports which we have called for from the various Local Governments and Administrations as to the local celebrations of the Coronation that were held throughout India on the same day as the Delhi Durbar, *viz.*, 1st January 1903.

We have the honour to be,
MY LORD,
Your Lordship's most obedient, humble Servants,
(Signed.) CURZON,
" KITCHENER.
" T. RALEIGH.
" E. FG. LAW.
" E. R. ELLES.
" A. T. ARUNDEL.
" DENZIL IBBETSON.

SPEECH DELIVERED BY HIS EXCELLENCY THE VICEROY AT THE OPENING OF THE ART EXHIBITION, 30TH DECEMBER, 1902.

YOUR ROYAL HIGHNESSES, YOUR HIGHNESSES, LADIES AND GENTLEMEN,—It is now my pleasant duty to proceed to the first of the functions of the present fortnight, and to declare open the Delhi Art Exhibition. A good many of our visitors would scarcely believe that almost everything that we see before us, except the trees, is the creation of the last eight months. When I came here in April last to select the site, there was not a trace of this great building, of these terraces, and of all the amenities that we now see around. They have all sprung into existence for the sake of this Exhibition, and though the effects of the Exhibition will, I hope, not be so quickly wiped out, the *mise en scène* is, I am sorry to say, destined to disappear.

Perhaps you will expect me to say a few words about the circumstances in which this Exhibition started into being. Ever since I have been in India I have made a careful study of the art industries and handicrafts of this country, once so famous and beautiful, and I have lamented, as many others have done, their progressive deterioration and decline. When it was settled that we were to hold this great gathering at Delhi, at which there would be assembled representatives of every Province and State in India, Indian Princes and Chiefs and Nobles, high officials, Native gentlemen, and visitors from all parts of the globe, it struck me that here at last was the long-sought opportunity of doing something to resuscitate these threatened handicrafts, to show to the world of what India is still capable, and, if possible, to arrest the process of decay. I accordingly sent for Dr. Watt, and I appointed him my right hand for the purpose. Far and wide throughout India have he and his Assistant, Mr. Percy Brown, proceeded, travelling thousands of miles, everywhere interviewing the artisans, selecting specimens, giving orders, where necessary supplying models, and advancing money to those who needed it. Three conditions I laid down to be observed like the laws of the Medes and Persians :

First, I stipulated that this must be an Arts Exhibition, and nothing else. We could easily have given you a wonderful show illustrating the industrial and economic development of India. Dr. Watt has such an exhibition, and a very good one too, at Calcutta. We could have shown you timbers, and minerals, and raw stuffs, and hides and manufactured articles, to any extent that you pleased. It would all have been very satisfying but also very ugly. But I did not want that. I did not mean this to be an industrial or economic Exhibition. I mean it to be an Arts Exhibition, and that only.

My second condition was that I would not have anything European or quasi-European in it. I declined to admit any of those horrible objects, such as lamps on gorgeous pedestals, coloured glass lustres, or fantastic statuettes, that find such a surprising vogue among certain classes in this country, but that are bad anywhere in the world, and worst of all in India, which has an art of its own. I laid down that I wanted only the work that represented the ideas, the traditions, the instincts, and the beliefs af the people. It is possible that a few articles that do not answer to my definition may have crept in, because the process of Europeadisation is going on space in this country, and the number of teapots, cream jugs, napkin rings, salt cellars, and cigarette cases that the Indian artisan is called upon to turn out is appalling. But, generally speaking, my condition has been observed.

Then my third condition was that I would only have the best. I did not want cheap cottons and wax-cloths, vulgar lacquer, trinkets and tinsel, brass gods and bowls made to order in Birmingham, or perhaps made in Birmingham itself. What I desired was an exhibition of all that is rare, characteristic, or beautiful in Indian art, our gold and silver ware, our metal work and enamels, and jewelry, our carving in wood and ivory, and stone, our best pottery and tiles, our carpets of old Oriental patterns, our muslins and silks and embroideries, and the incomparable Indian brocades. All of these you will see inside this building. But please remember it is not a bazar; but an exhibition. Our object has been to encourage and revive good work, not to satisfy the requirements of the thinly lined purse.

Such is the general character of the exhibition. But we have added to it something much more important. Conscious that taste is declining and that many of our modern models are debased and bad, we have endeavoured to set up alongside the products of the present the standards and samples of the past. This is the meaning of the Loan Collection, which has a hall to itself, in which you will see many beautiful specimens of old Indian artware, lent to us by the generosity of Indian Chiefs and connoisseurs, some of it coming from our own Indian Museums, and some from the unrivalled collection in the South Kensington Museum in London. Many of these objects are beautiful in themselves: but we hope that the Indian workmen who are here, and also the patrons who employ them, will study them not merely as objects of antiquarian or even artistic interest, but as supplying them with fresh or rather resuscitated ideas which may be useful to them in inspiring their own work in the future. For this may be laid down as a truism, that Indian art will never be revived by borrowing foreign ideals, but only by fidelity to its own.

And now I may be asked, what is the object of this Exhibition, and what good do I expect to result from it? I will answer in a very few words. In so far as the decline of the Indian arts represents the ascendency of commercialism, the superiority of steam power to hand power, the triumph of the test of utility over that of taste, then I have not much hope. We are witnessing in India only one aspect of a process that is going on throughout the world, that has long ago extinguished the old manual industries of England and that is rapidly extinguishing those of China and Japan. Nothing can stop it. The power loom will drive out the hand loom, and the factory will get the better of the workshop, just as surely as the steam car is superseding the horsed carriage, and as the hand-pulled punkah is being replaced by the electric fan. All that is inevitable, and in an age which wants things cheap, and does not mind their being ugly, which cares a good deal for comfort, and not much for beauty, and which is never happy unless it is deserting its own models and traditions, and running about in quest of something foreign and strange, we may be certain that a great many of the old arts and handicrafts are doomed.

There is another symptom that to my mind is even more ominous. I am one of those as I have said, who believe that no national art is capable of continued existence unless it satisfies the ideals, and expresses the wants, of the nation that has produced it. No art can be kept alive by globetrotters or curio-hunters alone. If it has got to that point, it becomes a mere mechanical reproduction of certain fashionable patterns: and when fashion changes, and they cease to be popular, it dies. If Indian art, therefore, is to continue to flourish, or is to be revived, it can only be if the Indian Chiefs and aristocracy and people of culture and high degree, undertake to patronise it. So long as they prefer to fill their palaces with flaming Brussels carpets, with Tottenham Court Road furniture, with cheap Italian mosaics, with French oleographs, with Austrian lustres, and with German tissues and cheap brocades, I fear there is not much hope. I speak in no terms of reproach, because I think that in England we are just as bad in our pursuit of anything that takes our fancy in foreign lands. But I do say that if Indian arts and handicrafts are to be kept alive, it can never be by outside patronage alone. It can only be because they find a market within the country and express the ideas and culture of its people. I should like to see a movement spring up among the Indian Chiefs and nobility for the expurgation, or at any rate the purification, of modern tastes, and for a reversion to the old-fashioned but exquisite styles and patterns of their own country. Some day I have not a doubt that it will come. But it may then be too late.

If these are the omens, what then is the aim of this Exhibition, and what purpose do I think that it will serve? I can answer in a word. The Exhibition is intended as an object lesson. It is meant to show what India can still imagine, and create, and do. It is meant to show that the artistic sense is not dead among its workmen, but that all they want is a little stimulus and encouragement. It is meant to show that for the beautification of an Indian house or the furniture of an Indian home, there is no need to rush to the European shops at Calcutta or Bombay, but that in almost every Indian State and Province, in most Indian towns, and in many Indian villages, there still survives the art, and there still exist the artificers who can satisfy the artistic, as well as the utilitarian,

tastes of their countrymen, and who are competent to keep alive this precious inheritance that we have received from the past. It is with this object that Dr. Watt and I have laboured in creating this Exhibition; and in now declaring it open, it only remains for me to express the earnest hope that it may in some measure fulfil the strictly patriotic purpose for which it has been designed.

SPEECH DELIVERED BY HIS EXCELLENCY THE VICEROY AT THE DELHI DURBAR ON 1ST JANUARY, 1903.

YOUR ROYAL HIGHNESSES, PRINCES, AND PEOPLES OF INDIA.—Five months ago in London His Majesty King Edward VII, King of England and Emperor of India, was invested with the crown and sceptre of the English Kings. Only a few representatives of the Indian Empire had the good fortune to be present at that ceremony. To-day His Majesty has by his royal favour afforded an opportunity to all his Indian people to take part in similar rejoicings, and here, and elsewhere throughout India, are gathered together in honour of the event the Princes and Chiefs and Nobles, who are the pillars of his throne, the European and Indian officials who conduct his administration with an integrity and devotion to duty beyond compare, the Army, British and Native, which with such pre-eminent bravery defends his frontiers and fights his wars, and the vast body of the loyal inhabitants of India, of all races who, amid a thousand varieties of circumstance and feeling and custom, are united in their spontaneous allegiance to the Imperial Crown. It was with the special object of thus solemnising his Coronation in India that His Majesty commanded me, as his Viceroy, to convene this great Durbar, and it is to signify the supreme value that he attaches to the occasion that he has honoured us by deputing his own brother, His Royal Highness the Duke of Connaught, to join in this celebration.

It is 26 years since, on the anniversary of this day, in this city of Imperial memories and traditions, and on this very spot, Queen Victoria was proclaimed the first Empress of India. That act was a vindication of her profound interest in her Indian subjects, and of the accomplished unity of her Indian dominions under the paramountcy of the British Crown. To-day, a quarter of a century later, that Empire is not less but more united. The sovereign to whom we are met to render homage is not less dear to his Indian people, for they have seen his features, and heard his voice. He has succeeded to a throne not only the most illustrious, but the most stable in the world; and ill-informed would be the critic who would deny that not the least of the bases of its security—nay, I think, a principal condition of its strength—is the possession of the Indian Empire, and the faithful attachment and service of His Majesty's Indian people. Rich in her ancient traditions, India is also rich in the loyalty which has been kindled anew in her by the West. Amid the crowd of noble suitors who, through all the centuries, have sought her hand, she has given it only to the one who has also gained her trust.

Nowhere else in the world would such a spectacle be possible as that which we witness here to-day. I do not speak of this great and imposing assemblage, unparalleled as I believe it to be. I refer to that which this gathering symbolises, and those to whose feelings it gives expression. Over 100 rulers of separate States, whose united population amounts to 60 millions of people, and whose territories extend over 55 degrees of longitude, have come here to testify their allegiance to their common Sovereign. We greatly esteem the sentiments of loyalty that have brought them to Delhi from such great distances, and often at considerable sacrifice; and I shall presently be honoured by receiving from their own lips their message of personal congratulation to the King. The officers and soldiers present are drawn from a force in India of nearly 230,000 men, whose pride it is that they are the King's Army. The leaders of Indian society, official and unofficial, who are here, are the mouthpieces of a community of over 230 million souls. In spirit therefore and one may almost say, through their rulers and deputies, in person, there is represented in this arena nearly one-fifth of the entire human race. All are animated by a single feeling and all bow before a single throne. And should it be asked how it is that any one sentiment can draw together these vast and scattered forces and make them one, the answer is that loyalty to the Sovereign is synonymuos with confidence in the equity and benignity of his rule. It is not merely the expression of an emotion, but the record of an experience and the declaration of a belief. For to the majority of these millions the King's Government has given freedom from invasion and anarchy; to others it has guaranteed their rights and privileges; to others it opens ever widening avenues of honourable employment; to the masses it dispenses mercy in the hour of suffering; and to all it endeavours to give equal justice, immunity from oppression, and the blessings of enlightenment and peace. To have won such a dominion is a great achievement. To hold it by fair and righteous dealing is a greater. To weld it by prudent statemanship into a single and compact whole will be and is the greatest of all.

Such are the ideas and aims that are embodied in the summoning of this Coronation Durbar. It is now my duty to read to you the gracious message which His Majesty has desired me to convey to his Indian people :—

"It gives me much pleasure to send a message of greeting to my Indian people, on the solemn occasion when they are celebrating my Coronation. Only a small number of the Indian Princes and representatives were able to be present at the Ceremony which took place in London; and I accordingly instructed my Viceroy and Governor-General to hold a great Durbar at Delhi, in order to afford an opportunity to all the Indian Princes, Chiefs and Peoples, and to the Officials of my Government, to commemorate this auspicious event. Ever since my visit to India in 1875, I have regarded that Country and its Peoples with deep affection: and I am conscious of their earnest and loyal devotion to my House and throne. During recent years many evidences of their attachment have reached me; and my Indian Troops have rendered conspicuous services in the Wars and Victories of my Empire.

"I confidently hope that my beloved Son, the Prince of Wales, and the Princess of Wales, may before long be able to make themselves personally acquainted with India and the Country which I have always desired that they should see and which they are equally anxious to visit. Gladly would I have come to India upon this eventful occasion myself had this been found possible. I have, however, sent my dear brother, the Duke of Connaught, who is already so well known in India, in order that my Family may be represented at the Ceremony held to celebrate my Coronation.

"My desire, since I succeeded to the Throne of my revered Mother, the late Queen Victoria, the First Empress of India, has been to maintain unimpaired the same principles of humane and equitable administration which secured for her in so wonderful a degree the veneration and affection of her Indian Subjects. To all my Feudatories and Subjects throughout India, I renew the assurance of my regard for their liberties, of respect for their dignities and rights, of interest in their advancement, and of devotion to their welfare, which are the supreme aim and object of my rule, and which, under the blessing of Almighty God, will lead to the increasing prosperity of my Indian Empire, and the greater happiness of its People."

Princes and Peoples of India, these are the words of the Sovereign whose Coronation we are assembled to celebrate. They provide a stimulus and an inspiration to the officers who serve him, and they breathe the lessons of magnanimity and good-will to all. To those of us who, like my colleagues and myself, are the direct instruments of His Majesty's Government, they suggest the spirit that should guide our conduct and infuse our administration. Never was there a time when we were more desirous that that administration should be characterised by generosity and lenience. Those who have suffered much deserve much; and those who have wrought well deserve well. The Princes of India have offered us their soldiers and their own swords in the recent campaigns of the Empire; and in other struggles, such as those against drought and famine, they have conducted themselves with equal gallantry and credit. It is difficult to give to them more than they already enjoy, and impossible to add to a security whose inviolability is beyond dispute. Nevertheless, it has been a pleasure to us to propose that Government shall cease to exact any interest for a period of three years upon all loans that have been made or guaranteed by the Government of India to Native States in connection with the last famine and we hope that this benefaction may be acceptable to those to whom it is offered. Other and more numerous classes there are in this great country to whom we would gladly extend, and to whom we hope before long to be in a position to announce, relief. In the midst of a financial year it is not always expedient to make announcements, or easy to frame calculations. If, however, the present conditions continue, and if, as we have good reason to believe, we have entered upon a period of prosperity in Indian finance, then I trust that these early years of His Majesty's reign may not pass by without the Government of India being able to demonstrate their feelings of sympathy and regard for the Idian population by measures of financial relief, which their patient and loyal conduct in years of depression and distress renders it especially gratifying to me to contemplate. I need not now refer to other acts of consideration or favour which we have associated with the present occasion since they are recorded elsewhere. But it is my privilege to make the announcement to the officers of the Army that henceforward the name of the Indian Staff Corps will cease to exist, and that they will belong to the single and homogeneous Indian Army of the King.

Princes and Peoples, if we turn our gaze for a moment to the future, a great development appears with little doubt to lie before this country. There is no Indian problem, be it of population or education or labour or subsistence, which it is not in the power of statesmanship to solve. The solution of many is even now proceeding before our eyes. If the combined arms of Great Britain and India can secure continued peace upon our borders, if unity prevails within them, between princes and people, between European and Indian, and between rulers and ruled, and if the seasons fail not in their bounty, then nothing can arrest the march of progress. The India of the future will, under Providence, not be an India of diminishing plenty, of empty prospect, or of justifiable discontent; but one of expanding industry, of awakened faculties, of increasing prosperity, and of more widely distributed comfort and wealth. I have faith in the conscience and the purpose of my own country; and I believe in the almost illimitable capacities of this. But under no other conditions can this future be realised than the unchallenged supremacy of the paramount power, and under no other controlling authority is this capable of being maintained than that of the British Crown.

And now I will bring these remarks to a close. It is my earnest hope that this great assemblage may long be remembered by the peoples of India as having brought them into contact at a moment of great solemnity with the personality and the sentiments of their Sovereign I hope that its memories will be those of happiness and rejoicing, and that the reign of King Edward VII, so auspiciously begun, will live in the annals of India and in the hearts of its people. We pray that, under the blessing of the Almighty Ruler of the Universe, his sovereignty and power may last for long years, that the well-being of his subjects may grow from day to day, that the administration of his officers may be stamped with wisdom and virtue, and that the security and beneficence of his dominion may endure for ever.

Long live the King, Emperor of India!

STATE BANQUET AT DELHI, 1ST JANUARY, 1903.

[On the evening of Thursday, the 1st January, 1903, His Excellency the Viceroy entertained at a State Banquet in his Camp at Delhi, His Royal Highness the Duke of Connaught, and a large and distinguished Company. His Excellency in proposing the toast of the King-Emperor after dinner spoke as follows:—]

Your Royal Highnesses, Your Excellencies, My Lords, and Gentlemen,—I rise to propose the health of His Majesty the King, Emperor of India. This afternoon we carried through, I hope with success, the great ceremony that had been devised for the celebration of His Majesty's Coronation in this country, and the spectacle was one that must have stirred the heart of every beholder. It brought home to every European or Indian inhabitant of this land the vivid reality of the constitution under which we live, and by which a far away and invisible mainspring guides with resistless energy and power every movement of this vast political machine; and I hope that it may also have impressed our various illustrious visitors and guests with the conviction that this Indian possession of His Majesty is no mere dead-weight tied on to the heels of the British Empire, but a Dominion, a Continent, an Empire by itself, rich in its own personality and memories, self-confident in its own strength, and aglow with abundant potentialities for the future. To be King of the United Kindom and of the British possessions beyond the Seas is a great and noble title. But to be Emperor of India is in no respect less, and is in some respects greater. For powerful Empires existed and flourished here, while Englishmen were still wandering painted in the woods, and when the British Colonies were wilderness and jungle; and India has left a deeper mark upon the history, the philosophy, and the religion of mankind than any other territorial unit in the universe. That a British Sovereign should in the fulness of time have been able to do what no predecessor of his ever accomplished, what Alexander never dreamed of, what Akbar never performed, namely, to pacify, unify, and consolidate this great mass into a single homogeneous whole, is in my judgment, the most impressive phenomenon in history, and the greatest wonder of the modern world.

Your Royal Highnesses, Your Excellencies, and Gentlemen, I venture to say that but one regret has filled all our minds here to-day. It is that His Majesty the King-Emperor has not been able to be present here in person to receive the homage of his loyal Feudatories and the acclamations of his Indian people. There is, indeed, no necessity for an Emperor of India to come out here to be crowned. His Majesty was our acknowledged and sovereign lord as soon as the throne was vacant nearly two years ago. But India would dearly have loved to see the face of her Emperor and to listen to his voice: and some day we may hope that, as time and distance continue to dwindle under the magic finger of science, it may be found possible for the Viceroy on some future occasion like the present to be eliminated as a superfluous phantom, and for the real figure to appear upon the scene.

However that may be, we are met here in honour of a Sovereign who, though he may be absent in person, is with us in spirit, and whose royal message, which I had the privilege of reading this afternoon, shows how proud he is of the allegiance, and how devoted to the interests, of his Indian people. At the Durbar it was my duty to address more particularly the various classes of His Majesty's Feudatories and subjects who had assembled to render him their homage and to listen to his words. But the presence at this table here to-night of so many illustrious representatives of foreign Powers and of eminent persons from all quarters of the globe, enables me to point to the fact, that the possession of India draws with it other and outside responsibilities, and brings us into relation, I am glad to say, peaceful and amicable relation, with all the Powers and Principalities of the East. We are honoured here by the company of a distinguished representative of the great and allied Empire of Japan, and by an Envoy from that enlightened monarch the King of Siam; and at our Durbar there were present to-day the Envoys or representatives of our friend and ally the Amir of Afghanistan, of the friendly Kingdom of Nepal, and of the Sultan of Muscat. Among our guests are the Governors-General of the Indian possessions of two powerful and allied nations, France and Portugal, with whom our relations are those of unbroken peacefulness and concord. Further, there have appeared for the first time at a gathering such as this, representatives of those great British Colonies beyond the seas, Australia and South Africa, whose star is destined to rise ever higher and higher, and whose Governments, as time passes on, must be brought into still closer connection with our own. Finally, we have here prominent Members of the Imperial Legislature, of the British Lords and Commons, who have journeyed across the ocean to join hands with us in this great ceremonial. I think I am entitled, therefore, to claim that it is no mere local celebration, but a great and Imperial solemnity of far-reaching interest and application, that we have been enacting to-day, and it is before an audience that is typical of all that is best in the British Empire, of our established dominion in Asia, of the friendly sentiments of our neighbours, and of the sympathetic regard of our own kith and kin across the seas, that I now propose my toast.

I give you all, Gentlemen, with feelings of profound respect, of devotion, and of enthusiasm, the health of His Majesty the King, Emperor of India.

[The toast was drunk with all honours.

The Viceroy then rose to propose the health of His Royal Highness the Duke of Connaught. His Excellency said:—]

Your Royal Highnesses, Your Excellencies, My Lords, and Gentlemen,—There is only one other toast that I shall present to you this evening. I said just now how greatly His Majesty the King-Emperor had regretted that he could not be present here in person at the celebration of his own Coronation. But as this was impossible, His Majesty took the one step that, had there been a plebiscite on the subject in India, we should all have voted for unanimously—namely, he deputed a member of the Royal Family, a near relative of his own, to represent his family on this occasion; and—the Prince and Princess of Wales finding it impossible to visit India in the present winter, though we hope that that is an honour only for a little while delayed—His Majesty's choice fell upon his Royal brother, the Duke of Connaught, whose presence at the ceremony to-day, and here again to-night, is regarded by all of us with quite exceptional pleasure and delight. These are our feelings, both because we regard His Royal Highness's visit as testifying in the most unmistakeable way to the attitude and interest of the Sovereign, and also because there is no Prince, I might go further and say no officer—for after all His Royal Highness has been one of ourselves, and has served the Crown in India—who has more endeared himself to the people of all classes in this country, to soldiers and civilians, to Europeans and Natives, than His Royal Highness the Duke of Connaught. He comes back to us, therefore, not merely as the delegate of our illustrious Sovereign, but as the old friend whom all India reveres and loves; and, if I may be permitted to diverge for one moment from the strict track of my toast, I would add that these sentiments on our part are enhanced by the knowledge that His Royal Highness has brought with him the gracious Princess whose popularity in India is not second even to his own. May I also say, though it is not perhaps absolutely germane to my toast, with what pleasure we see here another member of the Royal Family, His Royal Highness the Grand Duke of Hesse, himself a reigning sovereign, and a grandson of our late Queen, who has honoured us by joining our company, and whose presence is a compliment and a delight to us all.

And now, to revert to the subject of my toast, I hope that His Royal Highness the Duke of Connaught will carry away to His Majesty the King a favourable impression of the prosperity and loyalty of his great Indian dominion. I can assure him that we regard it as the highest honour that he should have come out to be with us on this momentous occasion. When our Delhi functions are over, we hope to arrange for him a pleasant tour through the scenes and among the people to whom he is so much attached; and when he sails away from our shores, I hope that India will always

keep the firm and agreeable resting-place in his memory that the Duchess and he already occupy, and will by their present visit confirm, in the affections of Europeans and Indians alike in this country.

Gentlemen, I ask you to join with me in drinking the good health, pleasant journey, and safe return of our illustrious guest, His Royal Highness the Duke of Connaught.

[The toast was drunk with enthusiasm.

His Royal Highness, who, on rising to respond to the toast, was very warmly received, said: —]

Your Excellencies, Your Royal Highness, My Lords, and Gentlemen.—I am indeed very sensible of the very kind manner in which you have proposed my health on this great and auspicious day. I can assure you that it was a great pleasure and satisfaction to myself when His Majesty the King informed me that it was his wish to send me out to India for the Coronation Durbar to represent his own family. I never expected that I should have such good fortune. My soldiering days now are cast in a very different climate. Ireland is a very different place from India, and Dublin is a very different place from Delhi, and I was never more astonished than I was on being told that I should come out to India again. It is a great pleasure to me to come—a pleasure to come again to a country to which anybody at all interested and having served the Crown in it must feel deeply attached.

There is also the feeling—I must say a somewhat sorrowful one—that when I was here before I had the good fortune to serve under three Viceroys and two Commanders-in-Chief and that now I am no longer connected with India, except in my heart. But I think it requires very little assurance from me that I do, and always shall, take the very deepest interest in everything that affects the happiness and prosperity and the greatness of His Majesty's Indian Empire.

I have many friends here, both British and Native, and to see them again—to see them well and getting on in the world—is a great satisfaction to me; and what especially gives me pleasure is to meet the Native Army once again. As you know, Sir, I was first connected with the Bengal Army, as it was then; in this Command—the Meerut Division—and with that of the Rawalpindi Division; after that for nearly four years, I had the Command of the Bombay Army, and, therefore, I may say that my interests are Indian, and not confined to one Presidency or another. But during the twelve years since I was in India, the Indian troops have taken their share in the defence of our frontiers and of our interests both in India and beyond the seas, and I am happy to think that whether it was in Africa, whether it was in China, or whether it was on the frontiers of India, every branch of the Indian Army has known how to maintain its reputation, and I can say with confidence that the Indian Army is respected by the armies of all other nations. It is a bad day for any Army when it does not get the chance of active service, and it would be especially so for the Indian Army if they were to be locked up year after year in their own country. However, this is a slight digression from the toast. May I be allowed to say for the Duchess of Connaught that she, equally with myself, rejoices to be again in India, and that she was very proud to be present at the ceremony of to-day; and may I also with reference to Your Excellency's remarks about my nephew, the Grand Duke of Hesse, say how highly he appreciates the pleasure of visiting India and of being your guest, and further may I, on this New Year's Day, tell you, Lord Curzon, how grateful we all are for your great hospitality and for the very kind and cordial welcome you have given us.

I thank you all, Gentlemen, for the kind manner in which you have drunk my health.

REPORT BY THE SPECIAL MAGISTRATE, CORONATION CAMP, DELHI.

The cases decided between the 22nd November 1902 and the 31st January 1903 were as detailed in Appendix.

Considering the very large numbers of people in and near the camps, the total number of cases, *viz.*, 196, reads very well. Out of these no less than 187 were of a trivial nature and were tried summarily, leaving only nine regular trials.

2. Only two cases against soldiers came before me. In one case the man was convicted of running off with money from a gambling den, and in the other a soldier was charged with causing the death of a native. This man was acquitted on appeal, having been convicted under Section 304-A, Indian Penal Code, by the Magistrate (causing death by a rash act).

3. Looking to the enormous numbers of soldiers at Delhi during the Durbar period, this speaks well for the behaviour of the British troops, under circumstances of considerable temptation.

4. I had exceptional opportunities of watching the out-door work of the Punjab Police, and I was much struck at the very good work carried out by them, often under circumstances of extreme difficulty, especially as regards the regulation of traffic.

H. B. THORNHILL, LIEUT.-COL.,
Special Magistrate, Coronation Camp, Delhi.

The 4th April 1903.

Appendix.

Statement showing the cases decided by Lieutenant-Colonel H. B. Thornhill, Special Magistrate, Delhi Durbar Camp.

1	2	3	4		5	6			7
			On summary trials.			On regular trials.			
—	Act under which case was brought.	Duration.	Convictions.	Acquittals.	Total.	Convictions.	Acquittals.	Total.	Remarks.
	Section 34, Police Act.	From 22-11-02 to 18-12-02.	9	...	9	...	...	...	During the whole period 196 cases were decided, of which 187 cases were tried summarily, and 9 cases were regular trials; of these cases, in 32 cases there were acquittal and in the remaining the accused were convicted.
	Indian Penal Code.	Ditto ...	4	...	4	1	1	2	
	Coronation Act	From 18-12-02 to 25-12-02.	16	3	19				
	Indian Penal Code.	Ditto ...	4	3	7				
	Total ...	From 22-11-02 to 25-12-02.	33	6	39	1	1	2	
	Coronation Act	From 25-12-02 to 1-2-03.	109	15	124				
	Indian Penal Code.	Ditto ...	15	6	21	2	2	4	
	Acts ...	Ditto ...	3	...	3	1	2	3	
	Total ...	From 25-12-02 to 1-2-03.	127	21	148	3	4	7	
	GRAND TOTAL...	From 22-11-02 to 31-1-03.	160	27	187	4	5	9	

H. B. THORNHILL, LIEUT.-COL.,
Special Magistrate, Coronation Camp, Delhi.

REPORT ON THE MEDICAL AND SANITARY ARRANGEMENTS, AND ON THE HEALTH OF THE CORONATION DURBAR CAMPS.

General.

In submitting this short report on the Sanitary and Medical History of the Central and Provincial Camps of the Coronation Durbar, it is satisfactory to be able to note that from the point of view of health, as well as in other respects, the assemblage has been a remarkable success.

The collection of such an enormous number of natives from all parts of India on one spot, which rendered the importation of many cases of disease not only possible but probable, was effected with the occurrence of a few cases of plague only which could be attributed to importation. These cases were all isolated, and did not act as *foci* for the spread of the disease. This immunity was owing to the excellence of the arrangements for the selection and inspection of all natives so carefully devised and carried out by the various Provincial Governments, and by the officials of the various Native States, and to the efficient Railway Plague Inspections on all the lines entering Delhi.

Weather.

The weather also contributed greatly to the good health of the Durbar, both through the absence of rain, so usual at that season, and from the fact that the temperature was, for most of the time, from five to ten degrees above the mean.

Difficulties to be met.

The difficulties to be contended with in the creation of a large town of about 100,000 inhabitants with four suburbs of from five to ten thousand inhabitants each, on a bare plain among the fields, and the arrangements for the adequate supply of food, water, hospital accommodation, conservancy, etc., for them, were necessarily great. It therefore speaks volumes for the forethought and organising powers of the officials who have been toiling for the past six months at the formation of the camps, that all the arrangements worked so perfectly, and that no hitch occurred.

Food.

There was abundance of food, and the establishment of a public market by the Supply and Transport Department prevented prices in Delhi from rising much, if at all, above the normal.

Water-supply.

The supply of water in the Central Camps was unlimited. Drawn from the Jumna above Delhi, it was passed through the filter-beds of the Delhi water-works, and distributed through all the camps in pipes, so that contamination was impossible.

In the Provincial and Native Chiefs' Camps, which were too far from the Jumna for a pipe supply to be arranged for (except in the case of the Punjab and Rajputana Chiefs' Camps, where pipe water was supplied), wells were dug by the Durbar authorities, minute instructions were drawn up by the Administrative Medical and Sanitary Officer for the regulation and safeguarding of these wells by the supply of special vessels for the withdrawal of water, and by the posting of special guards over them to prevent chance contamination by unauthorized individuals.

The abundant supply of water enabled the Durbar authorities to combat and, to a great extent, remove the nuisance and discomfort arising from the dust, which is always so bad in Indian camps, by watering all the main roads. Roads within camp limits were kept watered by the camps themselves.

Medical and Sanitary Staff.

The Medical and Sanitary arrangements were under the control of Lieutenant-Colonel C. J. Bamber, I.M.S., Sanitary Commissioner of the Punjab, as Administrative Medical and Sanitary Officer, with Major F. Wyville-Thomson, I M.S., as Special Health Officer, and Captain C. H. James, I.M.S., as Special Plague Officer. Under these there was a staff of two Assistant Surgeons and eight Hospital Assistants.

Arrangements for each Camp.

In addition to the above Durbar Staff, the Camp of each Provincial Government and Native State brought its own Medical Officer and Subordinates, with tents and equipment for a small hospital capable of treating ordinary cases of sickness up to three per cent. of the population of each camp, with arrangements to extend up to seven per cent., if necessary. Daily sick reports were furnished to the Administrative Medical Officer by each camp from the 20th December to the 10th January.

Out door Dispensary.

An out-door dispensary was established in the Central Camp in charge of a Hospital Assistant for the treatment of natives employed on the Durbar work from June 1902. In November it was removed to a supply house on the Alipur Road, where an Ambulance Station was also arranged. The latter was luckily never required, as owing to the excellent Police management of the traffic, no serious carriage or other accident was reported. Considering the very crowded state of the main roads, this was most satisfactory.

This Dispensary proved very useful, and was largely attended, 5,000 cases being treated between the end of June and the end of January.

In November a Civil Followers' Hospital of 32 beds was opened near Chandrawal village for all natives not otherwise arranged for, and any overflow cases from the Central Camps. It was built of thatched huts, and completely equipped with medicines and appliances, and had a staff of two Hospital Assistants and the usual servants.

Civil Followers' Hospital.

Separate arrangements for the segregation and treatment of Infectious Diseases were made by the Durbar Medical Staff, who kept this branch under their own control, Medical Officers of Provincial Camps being directed to report all such cases to the Health or Plague Officer for removal to a Segregation Hospital.

Infectious Diseases.

To enable any outbreak of plague to be effectually dealt with, Special Plague Regulations for the Durbar Area were issued by the Punjab Government, under Section 2 of the Epidemic Diseases Act (III of 1897), giving the Central Committee general control over plague operations, and detailing the steps to be taken and rules to be observed on the appearance of plague by the officials deputed by them.

Special Plague Regulations.

Four Segregation Hospitals, consisting of thatched huts of matting plastered over with mud, and fully equipped with beds, blankets, cooking vessels, lamps, etc., were erected at four different points.

Segregation Hospital.

One near Azadpur village was for cases occurring in the Central and Punjab Chiefs' Camps. It consisted of two wards for the accommodation of 28 plague patients, two wards of 4 beds each at some distance apart for cholera or small-pox, observation ward, dispensary, store room, servants' quarters, etc., and a number of small huts for the segregation of contracts. It had a staff of one Hospital Assistant, Compounder, Matron, Bhisti, Sweeper and Cook.

Similar but slightly smaller Segregation Hospitals were erected about a quarter of a mile from the Bombay and Rajputana Chiefs' Camps respectively, and another on the Rohtak Road, which was intended for cases coming from the Central India and United Provinces, Baroda, Mysore, Burma, Bengal and the other camps up to the Pembari Bridge. Each of these was in the charge of a Hospital Assistant with a staff of servants.

Of the two Assistant Surgeons employed, one was stationed at the Segregation Hospital at the Bombay Provincial Camp and the other at the Out-door Dispensary on the Alipur Road. The latter was in charge of the Postal and Telegraph Establishments, and with the assistance of another Hospital Assistant, made a daily sanitary inspection of the Central Camps.

The instructions given to the Medical Officers of camps were that on the appearance of any illness suspected to be of an infectious character, they were to take immediate steps to isolate the case temporarily on the outskirts of their camp, and to inform the Durbar Medical Authorities, who would inspect and, if necessary, remove the patient and contacts to a Segregation Hospital, and carry out the required disinfection.

Instructions regarding infectious cases.

Most fortunately the above arrangements were never severely taxed, owing to the immunity of the Durbar from plague and other infectious diseases.

Only ten cases of plague occurred altogether, in eight different camps. They were all menial natives, and recent arrivals, save one. They came in good health, but were evidently incubating the disease, and sickened from a few hours to a few days after arrival. The one exception was a man in the Bharatpur Imperial Service Transport, who had been a month in camp. The source of his infection could not be traced.

Plague cases.

Although there were thus eight separate *foci* for causing plague distributed widely over the camps, in no instance did a second case follow the original one. This was doubtless due to the open air life in tents, to the prompt recognition of the disease, and to the rapidity with which preventive measures were taken. It also supports the accepted theory that plague need not be feared in camps, and that the turning out of the inhabitants of infected villages into camp is a certain method of arresting the disease.

The ten cases of plague occurred in the following places :—

Their distribution.

Three coolies, who had arrived from Amritsar a few days before, were attacked simultaneously early in November.

They were living along with fifty others in an old building in the Baroda Central Camp on the King's Road. The sick men were removed and the contacts segregated. No further cases occurred. The building was disinfected, and the doorways built up. One case was severe, the other two mild. They all recovered.

Single fatal cases occurred at the Punjab Chiefs', Baroda Provincial, Central India Chiefs', Volunteer, Transport Lines, and the Bharatpur Imperial Service Corps Camps. A plague-stricken man was found on the road near Azadpur by Captain James. He died, and no information about him could be obtained.

Other Infectious Diseases.

With regard to other infectious diseases the Durbar was practically free from them. No cholera appeared, and there were five cases of small-pox confined to the Military Camps which were under the control of the Military authorities.

General Diseases.

As for general diseases, the camps were very healthy. Owing to the warm weather and freedom from rain and cold winds, chest diseases and pneumonia were not frequent or severe. Camps coming from Southern India were warned of the necessity to bring extra warm clothing for their followers, and the large number of sweepers employed in the Conservancy Department were provided with blankets and tents. With neglect of these precautions, and adverse conditions of weather, the mortality from pneumonia among the followers in such a gathering might be very severe.

Number of cases.

The total number of cases treated in the Chandrawal Civil Followers' Hospital, and reported by the Medical Officers of the different camps (excluding all the troops), for the period from the 20th December to the 10th of January is given below, but as the Medical Officers in many instances included their out-patients in the returns, the figures show a large excess over what were really serious cases in hospital:

	Cases.	*Deaths.*
Malarial Fever...	1,534	4
Pneumonia	365	22
Chest Diseases...	1,570	11
Dysentery and Diarrhœa	548	3
All other Causes	2,828	29
TOTAL ...	6,875	69

Conservancy.

Success of Arrangements.

The Conservancy arrangements, devised and carried out by Lieutenant-Colonel Thornhill, Executive Sanitary Officer and Special Magistrate for the Durbar, were a perfect success. It is only when one is actually concerned with this department that the magnitude of the task can be appreciated, and the greatest praise which can be bestowed on it was, as happened in this case, that things worked so smoothly and unobtrusively that they passed unnoticed. In no case was any objectionable sight or smell noticed, nor was a single serious complaint made. A liberal supply of latrines and of removal staff and plant insured the rapid disposal of the night-soil, and no accumulation ever occurred. Special roads, metalled and lighted, were made to the trenches, on which the carts worked all night, so that they were never in evidence.

Removal System.

The Removal System was carried out in the whole of the Central Camps, and in the greater part of the Military Camps. This meant the removal and burial every night of the soil from an estimated population of 100,000 people. Trenches were dug at three spots on the outskirts of the camps, to which the night-soil was removed either in Crowley's carts, or the iron receptacles were removed bodily on trollies drawn by bullocks, emptied washed, and brought back.

Trenches.

The trenches were in the form of shallow pits, one foot deep. The earth removed in digging them was pulverised by wooden mallets, and heaped on the side so that as soon as a cart of filth was emptied into the trench spreading itself out to a depth of about three inches, the powdered earth was immediately thrown on the top. No smell was noticeable except when the carts were actually being emptied. It never penetrated through the earth, and the absence of flies from the pits testified to the thoroughness of the system. The carts or receptacles were then washed with Condy's Fluid or Phenyle, and the washings poured into a separate pit.

Latrines.

The latrines, which were usually made of mat screens, were furnished with a special pattern of double iron bucket devised by Lieutenant-Colonel Thornhill. These were so arranged with a semi-circular iron plate on the top for the feet of the performer that

the urine and fæces were bound to pass into their own receptacles, and all soiling of the ground was thereby avoided. These buckets were then emptied into the receptacles, which were iron cylinders with double lids fixed by a clamp. They could be emptied into the Crowley's carts or removed when full on the trollies.

Each latrine had a separate compartment for washing in, to prevent the slopping of water the natives indulge in.

Urinals.

It was found impossible to remove the water from the urinals, so these were made in the form of heaps or pits full of sawdust. They acted perfectly, as they absorbed an enormous quantity of urine, and no smell or unpleasantness ever resulted.

Provincial Camps Conservancy.

The Provincial Camps made their own Conservancy arrangements under the supervision of the Durbar Sanitary authorities, a circular with instructions on sanitary matters being issued to them by Lieutenant-Colonel Bamber. In these camps trench latrines were used, being constructed and served by the camp staff.

Numerous Police Patrols round all these Camps prevented the soiling of the ground, and any chance contamination was removed from their outskirts by a body of sweepers from the Durbar Conservancy Staff told off for that purpose, under a Native Non-Commissioned Officer for each camp as Sanitary Inspector.

Central Camps Conservancy.

In the Central Camps, each camp brought its own sweepers, who were responsible for the tent work and cleaning up of kitchens, stables, etc., and for the transporting of receptacles to central depôts, whence their contents were removed to the trenches by the Durbar Staff.

Kitchen slops were disposed of in small absorption pits, filled with broken bricks; bath-water was poured out on flower-beds or lawns, and kitchen rubbish and stable-litter were collected in convenient spots for removal by the Durbar Conservancy Staff in carts.

Circulars.

Exact instructions were issued in printed circulars on all the above mentioned points, and distributed to all Camps by the Medical and Sanitary Administrative Officer, and any instance of an insanitary condition in the Central Camps was found to be caused by the neglect of the Camp Authorities to carry out the directions given them, which in many cases were not adhered to as closely as they might have been.

Dhobies.

The large number of *Dhobies* employed in the Civil and Military Camps, were not allowed to wash clothes inside their Camps, or in the Najafgarh Canal. The Jumna below the intake of the water-works was set apart for their use. The Najafgarh Canal was used only for bathing and watering horses.

C. J. BAMBER, *Lieut.-Col., I.M.S.,*
Sanitary Commissioner, Punjab,
and Administrative Medical Officer,
Coronation Durbar, Delhi.

Dated the 2*nd March* 1903.

REPORT ON THE POLICE ARRANGEMENTS IN CONNECTION WITH THE CORONATION DURBAR AT DELHI.

1. In paragraphs 23 and 24 of the Resolution of the Government of India in the Foreign Department, No. 949 I.-A., dated the 7th March 1902, it was directed that the General Police arrangements in connection with the Coronation Durbar at Delhi should be placed under the control of the Punjab Government, and that, as regards the camps of the various Local Governments and Administrations, the Punjab Government should enquire direct whether these Governments would prefer to arrange for the protection of their Camps themselves or to leave the arrangements in the hands of the Punjab Government.

2. *Protection of Camps of other Provinces.*—The Governments of Bengal, United Provinces of Agra and Oudh, the Central Provinces and Baluchistan elected to employ their own police for the protection of their Camps while the other provinces desired that the Punjab Government would undertake the responsibility.

With the exceptions above noted, the protection of the whole of the Camps as well as all duties connected with law and order were entrusted to the Punjab Police.

It was, however, subsequently arranged with the Government which had placed the protection of their Camps in the hands of the Punjab Government that they should supply a small number of police for employment in the interior of their respective Camps, but the responsibility for protection from without rested with the police of this province.

3. *Detective Police.*—In accordance with the orders contained in paragraph 6 of Government of India, Home Department, letter No. 640, dated the 20th August 1902, Mr. McCracken, Assistant to the General Superintendent of Operations for Suppression of Thagi and Dakaiti, was placed directly under the Inspector-General of Police, Punjab, for the control of an establishment of detectives drawn from the police forces of all provinces in India. Mr. McCracken was subsequently relieved of this duty by Mr. H. L. Kemball.

4. *Strength of the Police employed.*—The attached Statement A shows the strength of police employed on all duties in connection with the Durbar. It will be seen that of the total of—

36 Gazetted Officers,

165 Non-Gazetted Officers,

5,031 Sergeants and Constables,

the Punjab Police furnished—

29 Gazetted Officers,

105 Non-Gazetted Officers,

3,661 Sergeants and Constables,

and the following particulars relate to the duties performed by the latter force.

PART I.

Strength of the Force and the manner in which it was provided.

5. Including two Gazetted Officers of the North-West Frontier Province who were associated with the Punjab Police for all duties, the force consisted of —

1 Inspector-General.
2 Deputy Inspectors-General.
17 District Superintendents of Police.
12 Assistant District Superintendents of Police.
5 European Inspectors.
9 Native Inspectors.
3 European Deputy Inspectors.
88 Native Deputy Inspectors.
347 Sergeants.
70 Mounted Constables.
3,236 Constables.
1,441 Village Chaukidars.

Substitutes.—The districts from which the Non-Gazetted Officers and men were taken are shown in Statement B-I, which also gives the number of substitutes entertained in the places of the Constables withdrawn. The total number of substitutes was 2,500; they were employed on an average for two months at Rs. 7 per mensem.

Chaukidars, pay of.—The chaukidars received Rs. 7 per mensem while away from their villages, and local arrangements were made for their duties during their absence.

Period for which the Police were employed.—Statement B-II gives the dates on which the different parties of Police reached Delhi, the period spent there and the dates of their return to their districts. It shows that while the total strength was present from 20th December to 11th January the average for two months was—

20 Gazetted Officers.
87 Non-Gazetted Officers.
3,015 Sergeants and Constables.

Strength of Military Police.—The services of 20 non-commissioned officers and men of British Cavalry Regiments were borrowed from the Military authorities, 10 for 16 days and 10 for 13 days.

PART II.

Distribution and duties of the Force.

6. *Divisions formed.*—Three Divisions were formed as shown below :—

No. of Division.	Officer in charge.	District Superintendent of Police.	Assistant District Superintendent of Police.	Inspectors. European.	Inspectors. Native.	Deputy Inspectors. European.	Deputy Inspectors. Native.	Sergeants.	Mounted Constables.	Foot Constables.	Chaukidars.	Military non-commissioned officers.
I	Mr. Hammond, Deputy Inspector-General of Police.	10	7	3	3	3	47	172	41	1,664	251	10
II	Mr. Sydney Smith, Deputy Inspector-General of Police.	5	2	...	4	...	22	80	16	801	906	...
III	Mr. Dunsford, District Superintendent of Police.	2	3	2	2	...	19	95	13	771	284	10
	Total ...	17	12	5	9	3	88	347	70	3,236	1,441	20

The 1st Division was posted to the Central and Military Camps ;

The 2nd Division to the Provincial and Native Chiefs' Camps ; and

The 3rd Division to the City and suburbs of Delhi.

Details of the location and duties of each Division are given in Statement C I, II and III.

The area included in the three Police Divisions was about 50 square miles.

Protective arrangements in Divisions.—In the 1st Division chaukidars were employed in picketing the Ridge and the space to the east of the Central Camps between the Ridge and the Najafgarh Canal, while all duties in the camps themselves were performed by Regular Police.

In the 2nd Division the Native Chiefs made their own arrangements for the protection of the interior of their camps, the only exception being in the case of the Gaekwar of Baroda, who was supplied with Regular Police for this duty. A cordon of chaukidars was posted round every group of Camps, the pickets being 100 yards apart. Parties of Police were employed as patrols and to supervise the chaukidars. This system of protection worked remarkably well, as not a single case of theft by outsiders was committed.

The strength of Police in the 3rd Division is inclusive of the force ordinarily attached to the Delhi District. This Division was in charge of Mr. Dunsford, District Superintendent of Police, Delhi.

7. *Investigation.*—In accordance with the provisions of the Delhi Durbar Police Act, special police stations were created. In the 1st Division there were three such police stations. In the 2nd Division the Provincial Camps were formed into five groups, in each of which a police station was located. In the 3rd Division two jurisdictions in addition to the ordinary municipal police stations were arranged for.

8. *Crime reported.*—Statement D shows the offences reported between the 15th December and 15th January with the figures for the corresponding period in 1901-02.

Considering the great influx of visitors, the amount of valuables in their possession and the area over which the camps were spread, the remarkably small number of offences, in excess of the ordinary crime of the locality, was very satisfactory.

This result was, in a great part, due to the activity of the Detective Agency who discovered, in and about Delhi, 180 persons from different parts of the country, all of whom had been previously convicted of offences against property. Fifty-one of the persons were ordered to furnish security and 16 were deported.

One case of murder was reported. The body was found on the bank of the Najafgarh Canal in a decomposed state. The medical report showed that the deceased had several ribs broken, but the body was not recognised, and no clue to the offender was obtained.

9. *Regulation of Traffic.*—The paucity of European Subordinate Officers and the fact that the native police, drawn from every district in the province, had had no previous experience in such duties at first caused much difficulty in the regulation of traffic on the main thoroughfares which were crowded with vehicles of all descriptions.

I applied to the Military authorities for 20 non-commissioned officers of British Cavalry Regiments to be temporarily attached to the police from 23rd December, but it was not till 26th December that 10 men of the 15th Hussars were placed at my disposal. On 29th this number was increased by 10 men of the 9th Lancers. These non-commissioned officers and men proved most valuable. In the meantime the native police had learnt their duties, and by 1st January the traffic was fairly under control.

Gazetted Officers had not only to supervise but also to take an active part in performing these irksome duties.

The coachmen of the Native Chiefs and others imagined that they could ignore the authority of the police, and it was only by the exercise of much patience and firmness that the regulations could be enforced.

10. *Motor Cars.*—In the rules framed by the Punjab Government under Section 7 (1) of the Delhi Durbar Police Act, every Motor Car had to be licensed by the Inspector-General of Police before being used within the area to which the Act applied.

I licensed 22 Motor Cars, most of which were petrol ones.

The points I was directed to pay attention to were the stopping and turning powers of the vehicle, the amount of noise it created and the ability of the driver to control the vehicle. The conditions of the license provided that the speed should not exceed eight miles an hour, that the vehicle should not be used between sunset and sunrise or on the days of the State Entry, the Durbar and the review of the troops.

No accidents occurred which could be attributed to Motor Cars.

I attach a list of the vehicles licensed (Statement E).

11. *Ceremonials.*—The attached statement marked F shows the number of police employed on the occasion of the State Entry, the Durbar and other public functions.

The reserve intended to provide for such duties was insufficient, and men had to be withdrawn from the protection of Camps, thus throwing extra work on those who remained in charge. On the day of the Durbar, the police were on duty from early in the morning till nearly sunset and on the night of the State Ball, from sunset to sunrise.

12. *Parking of carriages.*—The number of carriages parked on each of the great functions is given in Statement G.

The system of parking is explained in the extract from the Carriage Traffic Regulations for 1st January given in Appendix G-I.

The same system with slight modifications was adopted at all the other Great Functions. At the State Ball the carriage ticket numbers instead of being given to the coachmen were affixed to the lamp on the near side of each carriage.

The use of carriage tickets of colours, corresponding with the flags of the different parking grounds, with block numbers, worked very well, and there was no difficulty in ascertaining the position of any carriage on seeing the ticket in possession of the occupier of the carriage.

Some non-commissioned officers and men of British Infantry Regiments were employed in issuing carriage tickets at the arrival platforms; they proved most useful.

The difficulty in connection with the carriages occurred on the conclusion of the functions when everybody endeavoured to get away at once. But directly the main roads were reached, a proper line was established.

On the night of the illuminations there was necessarily much confusion when the public rushed to their carriages and blocked the roads of exit. There were, however, no serious accidents.

On future occasions it would, I think, be better for the fireworks to be viewed from the walls and glacis of the fort rather than from the Jumma Masjid.

In 1877 the display of fireworks was held soon after dark; the spectators reached their seats, and their carriages were parked by day light. On the 2nd January 1903, the darkness added very much to the difficulties of the police.

13. *Accidents.*—Eighteen accidents to natives were reported as having been caused by carriages or horses. Six of them ended fatally, in the others the injuries were not serious.

Nearly all of these cases occurred in the city and bazars. The only other fatal accident was that in which an elephant belonging to the Maharaja of Rewah killed its Mahout.

14. *Fires.*—Sixteen fires occurred in the different Camps. The amount of damage done was slight.

The swords of the police employed in Camps had been sharpened, so that on the first alarm of fire they could cut the ropes of any neighbouring tents and thus prevent the fire from spreading.

15. *Lost property.*—One hundred and fifty-eight articles were reported lost, of which all but 90 were recovered.

PART III.

Health and conduct of the Force.

16. *Health.*—Of the 3,263 officers and men of the Punjab Police deputed from other districts, 135 were admitted to hospital; there were eight deaths, all from pneumonia.

Of the 1,441 chaukidars, 15 were admitted to hospital, and 6 died.

The Civil Surgeon of Delhi placed at my disposal four Hospital Assistants, two of whom were employed in visiting the police in the different Camps.

Two Gazetted Officers, Messrs. Dunsford and Baskett, were on the sick list for some days.

17. *Tents for the Police and Chaukidars.*—Particulars of the tents used are given in Statement H. Nearly every serviceable tent in possession of the Department was sent to Delhi.

Mr. Rundle, District Superintendent of Police, was appointed Quarter Master from 1st November. Prior to that date, Mr. Cocks, Assistant District Superintendent, acted in this capacity.

The Quarter Master had to receive and distribute all tents, to arrange for the carriage of the luggage of parties of police on arrival and departure from Delhi, and to draw and distribute the pay of the force.

18. *Conduct of the Force.*—There was only one complaint of incivility on the part of the police. Discipline was well maintained, and the conduct of the police and the chaukidars was excellent. His Honour the Lieutenant-Governor of the Punjab authorised a reward of Rs. 1,000, which with a similar sum given by the Central Committee, and Rs. 250 by the officer in charge of Visitors' Camp No. II, was distributed among the constables, each man receiving 10 annas.

The officers and men worked with much spirit. The duties of the officers were irksome and often required the exercise of much patience and good temper.

19. *Notice of Officers.*—When all did well it is invidious to make, distinctions, but I must mention the names of Messrs. Hammond and Sydney Smith, Deputy Inspectors-General, also of Mr. French, who held charge of the 2nd Division till 15th December. Mr. Lake, my Personal Assistant, in addition to his ordinary duties, controlled traffic on several occasions.

Although the police of the United Provinces of Agra and Oudh, Bengal, Central Provinces and Baluchistan took no part in the duties connected with law and order, they guarded their respective Camps most efficiently.

Mr. Bramley, District Superintendent of Police, in charge of the United Provinces Police, was most courteous and anxious to assist on every occasion.

Messrs. Tomkins and Stead, whose services were placed at my disposal by Mr. Hastings, C.I.E., Inspector-General of Police of the North-West Frontier Province, were employed on all duties and rendered valuable assistance.

I wish to bring very prominently to notice the excellent work done by Inspector Sandhe Khan, the Kotwal of Delhi, to whose tact and energy the success of the arrangements in the city was in a great measure due.

20. *Rewards.*—I have already recommended that the constables should receive double halting allowances or two annas instead of one anna per diem.

The village chaukidars worked remarkably well, and as already mentioned, not a single theft was committed by outsiders in Camps guarded by them. I recommend that each of the 1,441 chaukidars be given a present of one rupee, and that the families of the six men who died at Delhi should receive Rs. 10 each.

The Gazetted Officers of the force had no Christmas holidays, and while other officers were enjoying themselves had to work day and night. I venture to suggest that the European members of the force should be given 15 days' special privilege leave on the condition attaching to the Mahsud Blockade Leave.

C. BROWN,

Inspector-General of Police, Punjab.

D.

Statement showing the offences reported between the 15th December 1902 and 15th January 1903, with the figures for the corresponding period in 1901-02.

Division.	Number of cases admitted under				Remarks.
	Indian Penal Code.	Durbar Act.	Other Acts.	Total.	
1st Division	55	224	1	280	
2nd Division	10	155	2	167	
3rd Division	115	30	43	188	
TOTAL ...	180	409	46	635	
Less reported during same period of 1901-02	43	...	4	47	
Balancce ttribu'ed to Durbar	137	409	42	588	

DELHI DURBAR LIGHT RAILWAY.

The Durbar Light Railway was constructed to facilitate the movement of the crowds of people, European and Native, attending the Durbar, to relieve the traffic on the roads and to keep down the price of hired conveyances.

The sites for the various camps had been fixed before the construction of a railway was decided on, and the alignment had therefore to be chosen more with reference to the positions of the camps than to considerations affecting the financial aspect of the project.

The railway consisted of a main line laid from near the Kashmir Gate to the Polo Grounds with two branches, one to the Amphitheatre and the other to the Review Ground.

A plan is attached giving the general alignment and positions of stations. The main line, 4 miles long, was a double line with a single line loop at each of the termini. The terminal station at Kashmir Gate was situated on the loop and the other six main line stations were on the Double line, the effect produced being that of a continuous circular railway of 8 miles circumference divided into 13 sections.

The length of the Amphitheatre branch from its junction with the main line was 1·78 miles and the length of the Review Ground branch from its junction with the Amphitheatre branch 1·45 miles. The total mileage was thus—

	Miles.
Double line	4·00
Single line	3·23

or 11·23 miles of single track.

In addition to which there were sidings for stabling Rolling Stock at Kashmir Gate aggregating about half a mile. Both the branch lines were single, loops being formed at the termini.

The construction presented few difficulties from an engineering point of view, but the crossing of the line over the Ridge and the Bridge over the Najafgarh Canal, especially the former, were somewhat difficult in view of the short time available for the work.

The crossing of the Ridge entailed a mile of line on rough rocky ground and the Ridge itself, at the point the line crossed it, presented an irregular mass of practically bare rock necessitating a large amount of blasting and the transport of earth for the embankment from a considerable distance. The Bridge over the Najafgarh Canal was a timber structure of 3 spans of 10′ each on piles driven into the bed of the canal. There were numerous culverts, but they were all of small size.

The gauge was 2′ 6″; the permanent way and rolling stock being lent by the Military authorities from their Light Railway Reserve Stock. The General Service wagons, temporarily fitted with light garden seats to adapt them to passenger traffic, answered the purpose very well.

The construction was commenced on August 1st, 1902, and the line was opened for passenger traffic, at a maximum speed of 12 miles per hour, on December 1st, 1902, the work having been done by two Companies of the Sappers and Miners supplemented by civil labour engaged locally and supervised by the officers of the Sapper Companies.

The stations consisted of temporary thatched buildings with low platforms enclosed with bamboo fencing. Signals and telegraphic communication were provided, and the line was worked on the Absolute Block system to ensure the maximum of safety with high carrying capacity. The junction of the Amphitheatre branch with the main line was interlocked, and the Main Line was fenced in places where it ran close to important roads. Signals, fencing material, water column, tanks, stores, etc., were borrowed from the North-Western Railway.

The trained traffic and locomotive staff was lent by the North-Western Railway, but British soldiers were used as Ticket Collectors and Platform Sergeants, and Police were provided by the Inspector-General, Railway Police, Lahore.

The Traffic Department was under the control of Lieutenant C. L. Magniac, R.E., of the Traffic Department of the North-Western Railway, and the Locomotive Department was in the hands of an experienced Locomotive Foreman, also lent by that railway.

A feature of the lines was the large number of level crossings over public and camp roads; there were 32 of these in all, mostly on the main line. Gates were provided to prevent accidents, and three of the more important level crossings were in charge of British soldiers in addition to the native gate-keepers.

Tickets were issued for any distance and were collected, before the passengers entered the train, at the entrance wicket by a British soldier who at once placed the tickets in a locked box, on the principle adopted on the "Tube" railways in London. Season tickets were issued for the Durbar period only. The fares during the Durbar were Re. 1 first and 8 annas second class, but half these prices before and after the Durbar period.

The line was opened on December 1st with a few trains daily and a small staff, the number of trains and the staff being gradually increased to suit the requirements of the traffic.

In addition to the trains running on the main line a shuttle train was run daily between the Durbar Road junction and the Amphitheatre. The Review Ground branch was used on the day of the review only.

During the Durbar period trains were run on the main line at intervals of 15 minutes from 8 A.M. until 10 P.M.

The maximum number of trains run in one day was 92 on the main line (46 each way) and 16 (8 trips) on the Amphitheatre branch, or a total of 108 trains per day, equal to 496 train-miles.

The maximum number of passengers carried on any one day was 1,000 first (exclusive of season ticket-holders) and 8,354 second clsss passengers, and the maximum number of tickets issued at any one station was 224 first and 2,657 second class tickets.

The line was closed for traffic on January 18th, the total figures for working being as under :—

		Miles.
Total number of train miles run	... ...	8,567
		No.
Number of passengers carried, first	...	12,182
Exclusive of season ticket-holders, second	...	89,916
		Rs. A. P.
Receipts by sale of ordinary tickets...	...	47,692 11 0
Receipts by sale of season tickets ...	...	20,530 0 0
Total earnings	...	68,222 11 0

The cost of constructing and working the line are given below :—

	Rs. A. P.
Cost of construction including all staff and Locomotive charges prior to opening, carriage of permanent-way, engines, rolling stock and stores to Delhi ...	71,430 0 0
Cost of working including staff and stores for working for 7 weeks, dismantling all staff and Locomotive charges subsequent to closing with carriage of permanent-way, engines, rolling stock and stores from Delhi ...	54,462 0 0
GRAND TOTAL ...	1,25,856 0 0

The net cost of the railway was thus Rs. 57,633-5-0 ; but, as out of this sum about Rs. 30,000 represents carriage charges (paid principally to the North-Western State Railway, and thus a credit to the Government of India), the actual ultimate cost to the Government of India may be taken at under Rs. 30,000.

Although the line was open for 7 weeks, there was a very small traffic before the Durbar and it fell off again immediately afterwards. There was actually only about 10 days' heavy traffic, but during these 10 days the rush was very great and fully justified the precautions that had been taken in the way of solid construction, expensive trained staff, signals, fencing, gates, etc.

In other words the line had to be constructed, equipped and staffed on a scale enabling it to deal efficiently, and above all safely, with a traffic which suddenly assumed enormous proportions, lasted ten days only, and then disappeared.

Having regard to the heavy traffic on the railway and on the ordinary roads crossed by it, the large number of trains it was necessary to run and the arrangement necessary to ensure the proper check and collection of fares, the expenditure on construction and working could hardly have been reduced with safety, whilst it is difficult to see how a larger amount could have been earned.

It would perhaps have been better had the positions of the camp allowed of a main line (without branches), some 7 to 8 miles long being laid with the whole of the camps on either side of it, but the conditions did not admit of such an arrangement.

LAHORE : } H. A. L. HEPPER, *Captain, R. E.,*

The 7th March 1903. } *Special Railway Officer, Delhi Coronation Durbar.*

NOTE ON THE ACTIVITIES OF THE SUPPLY AND TRANSPORT CORPS IN CONNECTION WITH THE LATE DELHI DURBAR.

The duties devolving upon the Supply and Transport Corps were onerous in the extreme, inasmuch as they had to collect supplies for about 60,000 men and 30,000 animals, to say nothing of the visitors residing in the several Civil Camps, and when it is remembered that this meant about 17,000 tons of stores, the situation will perhaps be better understood.

2. The work was practically subdivided into two main headings—

I. Military camps, which generally drew their supplies under conditions similar to those adopted in field service; and

II. Civil camps, which were supplied from a Central Market on cash payment.

3. As regards I, Supply Depôts were established at Mubarakpore and at Badli, from which the troops drew their supplies in a systematic manner; while for the meat-supply a large slaughter-house was erected at Badli which turned out about ten tons of meat per diem—during the Durbar period.

4. As regards the Civil camps, the Central Market was established upon the assumption that—

4,000 Europeans,
10,000 Natives,
6,000 animals,

would have to be provided for, and although this estimate was somewhat in excess of requirements in consequence of the competition of other agencies, yet on the whole it was not very wide of the mark.

5. Two systems were at work in respect to the market—

(*a*) one the sale of articles in Government stalls, such as meat, bread, fuel, fodder and grain which were drawn from Government stocks; and

(*b*) the other in which certain tradesmen hired stalls at a fixed rate and sold their goods as they ordinarily do. In this way the following business were represented:—

I. Wine and spirit merchants.
II. Chemists and Druggists.
III. Drapers.
IV. Fish and game salesmen.
V. Vegetables and fruits salesmen.
VI. Flower salesmen.
VII. Restaurants for the natives of India, including both Hindus and Muhammadans.

6. About Rs. 90,000 was taken over at Government stalls, and although it could hardly be expected that tradesmen would give any idea as to the extent of their sales, it certainly did not fall below this amount.

7. Putting aside its general convenience to the Central and Visitors' camps, the market exercised a most beneficial effect to the community at large, as it most effectually controlled prices in the city which otherwise would have been most exorbitant.

8. As it was, the city folk and traders generally tried to undersell it, thereby creating a competition most favourable to the general assembly. The rates were not high, all things considered, as is shown by the fact that after meeting the expenditure involved in its establishment and maintenance the nett profit amount to about Rs. 1,000.

9. It was not the intention of Government by establishing the market to undersell or compete with local trade to any considerable extent, but chiefly for sanitary reasons it was deemed advisable to prevent an influx of townspeople to camps, and this was effected to an appreciable degree—the number of meat hawkers and others being decidedly less than might have been anticipated, apart from which, even they had to endeavour to work up to the standard of the market which in itself ensured a clean and excellent supply under European supervision.

CALCUTTA:
The 15th April 1903.

W. M. ALVES, LIEUTENANT,
for *Director of Supply and Transport,*
Delhi Durbar.

No. 157-T., dated the 28th March 1903.

From—F. G. MACLEAN, Esquire, C.I.E., Director-General of Telegraphs,
To—The Secretary to the Government of India, Public Works Department.

With reference to your letter No. 232-C.W.—T., dated the 18th of February 1903, I have the honour to report, for the information of the Government of India, that while, as stated in my letter No. 30-A. T., dated the 12th February 1903, the estimated value of the special traffic earned by this Department in connection with the Delhi Durbar was

Rs. 1,13,429, the actual revenue earned at Delhi was Rs. 1,23,202, excluding the revenue collected at other offices throughout India and Burma, on account of telegrams sent to Delhi. It may be interesting to point out that the number of paid telegrams sent from the Delhi offices, for the period—1st November 1902 to 31st January 1903, numbered 67,710, whereas the number sent to the Delhi offices from elsewhere, numbered 118,670, and that if this latter traffic be also credited to the Delhi Durbar, taking the average value of a paid telegram at 13·5 annas, a further sum of Rs. 1,00,000 should be added to the figures (Rs. 1,23,202) above making a grand total of Rs. 2,23,202. It is necessary, however, to state that it is unusual in calculations of this kind, to take into consideration the value of received telegrams.

2. *Other work done by the Telegraph Department in connection with the Delhi Durbar.*—To meet the abnormal traffic which was anticipated in connection with the Durbar, the following measures were carried out:—

(*i*) Special additional telegraph circuits were arranged from Delhi to Bombay, Karachi, Sukkur, Lahore, Allahbad, Cawnpore, and Calcutta which involved the erection of 2,797 miles of extra telegraph wire for Departmental purposes.

(*ii*) A large Departmental Telegraph Office was established in the Central Camp, and it was placed in direct telegraphic communication with the Delhi Government Telegraph Office, the ten local Telegraph offices, and with all the principal Telegraph offices in India.

(1) His Excellency the Viceroy's Camp.
(2) Consuls and Press Camp.
(3) Visitors' Camp No. 1.
(4) Badli Supply Depôt.
(5) Central Supply Depôt
(6) Azadpur Military Camps.
(7) Bombay Chiefs.
(8) Central India Chiefs.
(9) Mysore Camp.
(10) Rajputana Chiefs.

(*iii*) Ten local Telegraph offices were opened in the different Camps enumerated in the margin and necessitated the erection of 138·36 miles of extra telegraph wires.

(*iv*) An extensive Telephone Exchange system connecting the different Camps, etc., was established.

(*v*) Additional Railway Telegraph and Telephone Offices were opened, and 714·665 miles of extra telegraph wire erected for Railway requirements, as given below;—

Oudh and Rohilkhand Railway	... ...	100·545
North-Western Railway	... ...	324·85
East Indian Railway ...	... ...	130·62
Rajputana-Malwa Railway	... ...	139·17
Delhi Light Railway ...	... ...	19·48
	Total ...	714·665

(*vi*) For the Central Camp Telegraph Office and Central Telephone Exchange a large brick structure, 160 feet in length, was constructed and supplied with electric light throughout. The staff attached to that office, numbered about 300 men, and accommodation for them was provided to the rear of the office building in the Camp consisting of 160 field service tents which were arranged in 8 sections, each section being complete with its own mess tent, cook-house and staff of servants.

3. The two most important measures taken and which I consider led to the disposal in a highly satisfactory manner, of the unprecedented Press traffic were (1) in arranging for the Delhi Central Camp Telegraph Office to be in direct telegraphic communication with all the principal Telegraph stations in India, and (2) the extensive use of the Automatic system of transmission.

4. There were no less than 63 special Press correspondents (including 9 for Foreign Newspapers) at Delhi, who contributed messages regularly between the 29th December 1902 and the 13th January 1903, and the fact that all their requirements in regard to their telegraphic correspondence were satisfactorily met, may be considered to be a very creditable achievement to the Telegraph Department.

5. His Excellency the Viceroy's Durbar Speech, of 1st January 1903, was telegraphed *verbatim* to the London Press and is the first speech in the history of this Department, ever so telegraphed.

DELHI DURBAR POSTAL ARRANGEMENTS.

The actual postal work in connection with the Durbar began on the 8th October 1902 when two temporary Camp sub-offices were opened for the convenience of the members of the Durbar Executive Committee and other officers who had come to arrange for the Durbar Camp. On the 3rd November 1902, Rai Daulat Ram Bahadur, C. I. E., took up his appointment as Chief Superintendent of Post Offices, Coronation Durbar.

2. The two temporary Camp Offices were abolished on the 20th November and in their place the Coronation Durbar Head Office was opened with two subordinate post offices at the Punjab Chiefs' Camp and the Central Camp Railway Station. Between the 20th November and the 26th December, 16 additional post offices were opened for the Baroda and Mysore Camps, the Viceroy's Camp, the Bombay Chiefs' Camp, the Rajputana Chiefs' Camp, the Central India Chiefs' Camp, Visitors' Camp No 1, the Madras Chiefs' Camp, the Commander-in-Chief's Camp, the Bombay Government Camp, the Punjab Government Camp, the North-West Frontier Camp, Visitors' Camp No. 2, the Viceroy's Escort Camp, the United Provinces Government Camp, the Bengal Government Camp, and the Camp of the Muhammadan Educational Conference. At the same time the Delhi Head Office and its town sub-offices had their establishments increased in order to meet the fast-growing postal traffic.

3. On the 23rd December 8 Military Camp Post Offices were opened to serve the troops which had come in from the Manœuvres to join the Durbar Camp. These offices had been working during the Manœuvres almost exactly under field service rules, and to prevent confusion they were still styled "Field Post Offices." They were severally located at the Camps of the First Cavalry Division, the Mounted Infantry and Field Artillery, the Royal Horse Artillery, the Imperial Service Contingent, the Third and Fourth Infantry Brigades and Sappers, the Fifth and Sixth Infantry Brigades, the First and Second Infantry Brigades, and the First and Second Infantry Divisions.

4. There were thus in all 27 Post Offices opened to serve the Delhi Durbar Camps with the following establishment:

1 Chief Superintendent
7 Superintendents.
5 Inspectors.
25 Postmasters of various grades.
181 Deputy Postmasters, Assistant Postmasters and clerks.
145 Postmen.
45 Packers.
30 Cycle and Orderly Peons.
12 Overseers.
73 Sweepers and other inferior servants.

The Railway Mail Service was also strengthened by the addition of—

5 Assistant Superintendents and
88 Sorters besides inferior establishments.

Twenty-one tongas supplied from the Simla-Kalka line were employed on the mail service at the Durbar and 80 tongas were furnished by the Post Office for the use of the Foreign and Press Camps.

The entire additional Postal establishment for the Durbar consisted of 931 men.

5. The Coronation Darbar Head Office was held in a large masonry building specially erected for the purpose. The various Camp Offices in the Central Camp were in masonry Kiosks and most of the other Camp and Field Post Offices were in tents.

6. The Coronation Durbar Head Office comprised three offices. The first was the Head Office properly so called, the second was a Base Post Office for the 8 Field Post Offices, and the third was the Enquiry Office. The business of the Enquiry Office was generally to act as the brains of the Durbar postal system. It collected the names and addresses of the residents of and visitors to the various Camps and establishments connected with the Durbar assemblage, received all special instructions for delivery, and daily circulated the information thus obtained among the various departments of the Head Office proper. It also undertook deposit work and all the functions of the Enquiry Branch of a Dead Letter Office. In order to carry out the latter duty, it had attached to it clerks who were able to read almost all the Vernaculars of India from Burmese to Kashmiri, besides Persian and other languages. The Enquiry Office, thus organised, had to deliver many thousands of letters very inadequately or wrongly addressed, and to undertake the task of redirecting the correspondence of departing visitors. It was also in

practice used by the general public as a guide to the Durbar Camp and its proceedings, and information of all kinds was largely sought for from it by all classes of the public at all hours.

7. Until the 17th December the Head Office made 4 deliveries daily and the outlying Camp Offices 2 deliveries. From the 18th December the deliveries were increased to 8 and 4 respectively, beginning at 7-0 A.M. and ending at 6-0 P.M. Each official Camp was required by the Executive Committee to have attached to it an Enquiry Office, and in most cases the officer in charge of the Camp arranged that the postmen should leave all articles for delivery to the residents in the Camp with the Enquiry Office, the delivery to the individual residents being arranged for by himself. By this plan it was possible to keep down the staff of postmen to a minimum and to get through the deliveries more quickly than would otherwise have been feasible. There were over 80 pillar letter-boxes distributed throughout the Camp and clearances were made from 4 to 7 times a day by 20 cyclist peons.

8. It was not practicable to count the actual number of unregistered articles received and despatched, but it is estimated that the entire volume of extra unregistered correspondence delivered at Delhi on account of the Durbar approached 2½ million articles. The extra number of parcels, value-payable articles, and registered articles received was more than 76,000 and the extra number of money orders issued was in round figures 28,000 for Rs. 6,68,500. The Comptroller's estimate of the total postal revenue attributable to the Durbar shows a considerable excess over all the additional expenditure incurred.

9. The organisation and supervision of all the postal arrangements were carried out by Mr. C. H. Harrison, Officiating Postmaster-General of the Punjab and North-West Frontier Province, up to the 12th November 1902, and from that date by Mr. C. Stewart Wilson, the permanent Postmaster-General.

SIMLA :
The 18th April 1903.

H. M. KISCH,
Offg. Director-General of the Post Office of India.

CLASS A.

Statement of expenditure on works debitable to Durbar Grant.

Serial No.	Name of work.	Gross outlay.			Receipts.			Probable net expenditure.	Remarks.
		Actual to 31st March 1903.	Probable further expenditure.	Total expenditure.	Actual to 31st March 1903	Probable further receipts.	Total.		
		Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
	(a)—Works carried out by the Superintendent of Works.								
1	Preliminary operations, minor roads and culverts for troops, etc.	9,843 6 9	830 0 0	10,673 6 9	...	...	...	10,673 6 9	
2	Roads	1,80,501 11 11	3,600 0 0	1,84,101 11 11	2,732 5 4	...	2,732 5 4	1,81,369 6 7	
3	Water-supply, Central Camp	2,15,544 4 0	3,548 0 0	2,19,092 4 0	78,771 9 4	50,075 0 0	1,28,846 9 4	90,245 10 8	
4	Water-supply, Native Chiefs' Camp	19,344 8 0	...	19,344 8 0	...	...	...	19,344 8 0	
5	Watter-supply, Rajputana Chiefs	11,463 11 4	425 0 0	11,038 11 4	200 5 9	...	200 5 9	10,838 5 7	Gross outlay Rs. 21,038 11-4, out of which Rs. 10,000 contributed by the Rajputana Chiefs through S. E., Rajputana.
6	Conservancy arrangements	44,802 0 6	...	44,802 0 6	8,671 13 7	17,694 0 0	26,365 13 7	18,436 [illegible] 11	
7	Dais and Amphitheatre	3,37,994 3 7	845 0 0	3,38,839 3 7	29,748 0 5	35,380 0 0	65,128 0 5	2,73,711 3 2	
8	Additions to Fort Buildings for Investiture and State Ball	1,83,178 0 10	2,613 0 0	1,85,791 0 10	32,822 10 6	2,536 0 0	35,358 10 [illegible]	1,50,432 6 4	
9	Clearing Central Camp with roads, culverts and drainage	58,840 15 5	...	58,840 15 5	647 9 10	...	647 9 10	58,193 5 7	
10	Interior roads and foot paths of His Excellency the Viceroy's Camp.	12,228 15 3	...	12,228 15 3	366 1 10	...	366 1 10	11,862 13 5	
11	Polo-ground with club pavilion and other subsidiary works	61,670 7 5	...	61,670 7 5	59,729 7 0	2,210 0 0	61,939 7 0	368 15 7	
12	Spectators' stand in front of Amphitheatre	3,354 11 1	...	3,354 11 1	...	...	...	3,354 11 1	
13	Grand stand for review	12,298 6 10	...	12,298 6 10	1,142 12 9	1,000 0 0	2,142 12 9	10,155 10 1	
14	Central Telegrph Office	7,359 8 7	...	7,359 8 7	65 12 10	1,488 0 0	1,553 12 10	5,805 11 9	
15	Church in Central Camp	979 5 10	...	979 5 10	...	...	...	979 5 10	Gross outlay Rs. 2814-5-10, out of which Rs. 1835 received from the Bishop of Calcutta.
16	Stand for massed bands	2,399 6 7	...	2,399 6 7	...	...	...	2,399 6 7	
17	Nepal Camp	4,743 1 4	...	4,743 1 4	632 11 2	...	632 11 2	4,110 6 2	
18	Foreign and Press Camp	18,108 4 8	...	18,108 4 8	2,328 13 6	1,000 0 0	3,328 13 6	14,779 7 2	
19	Native Press Camp	5,577 12 4	500 0 0	6,277 12 4	753 13 9	1,000 0 0	1,753 13 9	4,523 14 7	
20	Executive Committee's Camp	1,449 0 3	75 0 0	1,524 0 3	13 12 4	70 0 0	83 12 4	1,440 3 11	
21	Ticket Office	1,224 15 3	...	1,224 15 3	74 13 4	...	74 13 4	1,150 [illegible] 11	
22	Fireworks	979 2 0	...	979 2 0	148 10 0	...	148 10 0	830 8 0	
23	Mess buildings for Visitors' Camp, No. 2	7,797 9 6	...	7,797 9 5	9,032 5 7	400 0 0	9,432 5 7	1,634 12 1	
24	Miscellaneous functions	4,181 8 0	...	4,181 8 0	...	...	...	4,181 8 0	
24(a)	Veterinary Hospital	157 5 5	...	157 5 5	...	...	...	157 5 5	
	Total ...	12,06,222 6 8	11,586 0 0	12,17,808 6 8	2,27,883 8 10	1,12,853 0 0	3,40,736 8 10	8,77,071 13 10	
25	Establishment and Tools and Plant	91,926 9 0	13,302 15 0	1,05,229 8 0	15,891 6 4	793 0 0	16,684 6 4	88,545 1 8	
	Grand Total ...	12,98,148 15 8	24,888 15 0	13,23,037 14 8	2,43,774 15 2	1,13,646 0 0	3,57,420 15 2	9,6[illegible]6 15 6	

Statement of expenditure on works debitable to Durbar Grant—cancluded,

Serial No.	Name of work.	Gross outlay.			Receipts.			Probable net expenditure.	Remarks.
		Actual to 31st March 19-3.	Probable further expenditure.	Total.	Actual to 31st March 1903.	Probable further receipts.	Total.		
	(b)—Works carried out by other Departments, but accounts of which passed through the books of the Superintendent of Works.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
26	Durbar Light Railway	64,513 12 8	44 13 3	64,558 9 11	...	...	...	64.558 9 11	
27	Widening and improving Provincial Roads	8,596 11 11	...	8,596 11 11	...	...	...	8,596 11 11	
28	Canal Works	19,693 1 4	...	19,693 1 4	...	...	...	19 693 1 4	Out of this Rs. 3,786-12-4 expended by Superintendent of Works.
29	Triumphal arch	335 10 6	...	335 10 6	...	...	...	335 10 6	
30	Chairs for Foreign Office	3,934 0 0	...	3,934 0 0	1,128 12 11	1,000 0 0	2,128 12 11	1,805 3 1	
31	Restoration of land occupied by several Camps ..	25,000 0 0	4,725 0 0	29,725 0 0	...	...	...	29,725 0 3	
	TOTAL ...	1,22,073 4 5	4,769 13 3	1,26,843 1 8	1,128 12 11	1,000 0 0	2,128 12 11	1,24,714 4 9	

GANGA RAM,

Superintendent of Works, Coronation Durbar, Delhi.

CLASS B.

Durbar works for which funds were provided by other Departments.

Serial No.	Name of work.	Gross outlay. Actual up to 31st March 1903.	Gross outlay. Probable further expenditure.	Gross outlay. Total.	Receipts. Actual up to 31st March 1903.	Receipts. Probable further receipts to end.	Receipts. Total.	Probable net outlay to end.	Remarks.
	Provincial Public Works Department Grant.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
32	Circuit House	55,102 12 11	2,009 0 0	57,111 12 11	275 7 7	...	275 7 7	56,836 5 4	
	Imperial Postal Grant.								
33	Constructing Central Post Office	9,939 6 6	...	9,939 6 6	1,250 0 0	750 0 0	2,000 0 0	7,939 6 6	
34	One Kiosk Post Office	1,202 0 7	...	1,202 0 7	105 12 0	...	105 12 0	1,096 4 7	
	Imperial Public Works Department Grant.								
	Five Kiosk Post Offices	6,010 3 3	...	6,010 3 3	529 0 6	...	529 0 6	5,481 2 9	
	Imperial Postal Grant.								
35	Thatched Post Office at junction of Durbar and Alipore Road.	223 14 5	...	223 14 5	19 6 0	...	19 6 0	204 8 5	
	Counters in the Central and Branch Post Offices...	1,690 3 4	...	1,690 3 4	...	...	...	1,690 3 4	
	East Indian Railway Branch Post Office ...	897 14 11	...	897 14 11	46 3 1	...	46 3 1	851 11 10	
	Constructing thatched huts for stables, etc., in Central Post Office.	1,204 12 4	...	1,204 12 4	...	...	...	1,204 12 4	
	Civil Department other than Durbar Grant.								
36	Exhibition Building	1,65,410 10 0	500 0 0	1,65,910 10 0	5,207 10 1	30,000 5 11	35,208 0 0	1,30,702 10 0	
	TOTAL ...	2,41,681 14 3	2,509 0 0	2,44,190 14 3	7,433 7 3	30,750 5 11	38,183 13 2	2,06,007 1 1	

GANGA RAM,

Superintendent of Works, Coronation Durbar, Delhi.

CLASS C.

Works carried out by the Superintendent of Works on behalf of other Local Governments and Administrations who provided funds for the same.

Works.	Gross outlay.			Receipts.			Probable net outlay to end.	Remarks.
	Actual to end of 31st March 1903.	Probable further expenditure.	Total.	Actual up to 31st March 1903.	Probable further receipts.	Total.		
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
Bengal Camp	4,912 4 1	...	4,912 4 1	...	...	...	4,912 4 1	
Mysore "	402 6 10	...	402 6 10	...	...	...	402 6 10	
Assam "	310 0 9	...	310 0 9	...	...	...	310 0 9	
Burma "	1,162 0 7	...	1,162 0 7	...	...	...	1,162 0 7	
North-West Frontier Province Camp	956 1 8	...	956 1 8	...	...	...	956 1 8	
Rajputana and Central India "	1,050 7 5	...	1,050 7 5	...	...	...	1,050 7 5	
Madras Camp	10 0 0	...	10 0 0	...	...	...	10 0 0	
United Provinces Camp	71 11 2	...	71 11 2	...	...	...	71 11 2	
Central Provinces Camp	523 1 2	...	523 1 2	...	...	...	523 1 2	
Commander-in-Chief's Camp	2,101 5 11	...	2,101 5 11	...	...	...	2,101 5 11	
Bombay Camp	8 1 7	...	8 1 7	...	...	...	8 1 7	
Hyderabad Camp	1,689 9 0	...	1,689 9 0	...	...	...	1,689 9 0	
Imperial Cadet Corps Camp	1,284 3 5	...	1,284 3 5	...	...	...	1,284 3 5	
Imperial Service Troops	1,376 0 4	...	1,376 0 4	...	...	...	1,376 0 4	
Viceroy's Stables	3,704 1 7	...	3,704 1 7	...	1,711 0 3	1,711 0 3	1,993 1 4	
TOTAL ...	19,561 7 6	...	19,561 7 6	...	1,711 0 3	1,711 0 3	17,850 7 3	

GANGA RAM,

Superintendent of Works, Coronation Durbar, Delhi.

MEMORANDUM

GIVING A BRIEF ACCOUNT OF THE PRINCIPAL ARRANGEMENTS CARRIED OUT IN CONNECTION WITH THE CORONATION DURBAR HELD AT DELHI ON THE 1ST JANUARY, 1903.

* * * * * * * *

2. *Central Committee.*—The Central Committee was composed of—

PRESIDENT:

H. S. BARNES, ESQ., C.S.I., *Foreign Secretary.*

MEMBERS:

MAJOR-GENERAL G. HENRY, *Quartermaster-General in India.*

T. GORDON WALKER, ESQ., *Commissioner, Delhi Division.*

LIEUTENANT-COLONEL THE HON'BLE E. BARING, *Military Secretary.*

J. M. CAMPION, ESQ., *Chief Engineer, Punjab.*

SECRETARY:

F. S. COWIE, ESQ., *Foreign Department.*

Mr. J. M. Campion retired from the service in August 1902, and was succeeded by Colonel J. W. Thurburn, R.E. Lieutenant-Colonel C. J. Bamber, I.M.S., Sanitary Commissioner, Punjab, joined the Committee in December 1902.

3. *Executive Committee.*—The members of the Executive Committee were:

COLONEL H. F. LYONS-MONTGOMERY, *Supply and Transport Corps.*
MAJOR M. W. DOUGLAS, *Deputy Commissioner, Delhi.*
MAJOR H. HUDSON, *Assistant Quartermaster-General.*
CAPTAIN A. D. BANNERMAN, *Political Department* (*Secretary*).

4. *Duties of the Executive Committee.*—The duties entrusted to the Executive Committee were the selection of sites for the different camps, and the submission of proposals, for the approval of the Central Committee, for the making and maintenance of roads; provision of a sufficient supply of good drinking water and of water for the large numbers of elephants, horses, camels, bullocks, etc., belonging to the different civil and military camps; supplies for the Provincial Camps; the affording of railway, postal and telegraph facilities; the watch and ward of the encampments; conservancy and other arrangements necessary for the convenience, safety and comfort of the large concourse of people who would be present. An experienced Engineer Officer of the Punjab Public Works Department, Rai Bahadur Ganga Ram, was appointed to be Superintendent of Works and was deputed, to Delhi, to assist the Executive Committee with advice and to carry out under their directions the construction of the necessary buildings, roads, etc., and all engineering details connected with the laying out of the camp sites, water-supply, conservancy arrangements, etc.

5. *Committee Meetings.*—The first meeting of the Executive Committee was held at Delhi on the 2nd December 1901, and was attended by representatives of the East Indian, North-Western, Oudh and Rohilkhand, and Rajputana-Malwa Railway Administrations. After the temporary railway extensions and general additional facilities for passenger and goods traffic which it appeared advisable to secure had been discussed, the position of the main camps was determined and general proposals regarding sanitation, communications and other matters connected with the camps were drawn up and submitted for the approval of the Central Committee. Meetings were subsequently held from time to time to determine the action to be taken with respect to the details of the general arrangements which had to be made and other matters which required settlement. The number of meetings held were

Re-constituted Committee.

19. After the 17th January 1903, the date of the last meeting, the two Committees were amalgamated and a new Committee formed consisting of—

T. Gordon Walker, Esq., Commissioner of Delhi (*President*).
Colonel J. W. Thurburn, R.E., Chief Engineer, Punjab.
Colonel H. F. Lyons-Montgomery, Supply and Transport Corps.
Lieutenant-Colonel C. J. Bamber, I M.S., Sanitary Commissioner, Punjab.
Major M. W. Douglas, Deputy Commissioner, Delhi.
Major H. Hudson, Assistant Quartermaster-General.
Captain A. D. Bannerman, Political Department (*Secretary*).
Rai Bahadur Ganga Ram, Superintendent of Works.

This Committee examined the accounts with which the Executive Committee had to deal such as the accounts of Visitors' Camps No. 2 and No. 3 and of the Polo-ground, and decided upon the measures to be adopted for the clearance of the camp sites and restoration of the land to the cultivators. They also passed orders on various matters relating to the accounts of the Superintendent of Works which came up for settlement. The final meeting of the Committee was held on the 10th April 1903.

* * * * * * * *

11. *Visitors' Camps*—To supplement the hotel accommodation of Delhi which is limited, arrangements were made for three Visitors' Camps.

No. 1 which was occupied chiefly by visitors from England was located at Maiden's Hotel, and in tents pitched on land adjacent to the hotel building. The number of visitors for whom arrangements were made was at first 150, but this number was subsequently increased. Applications for accommodation in this camp had to be made to the Military Secretary to the Viceroy.

No. 2 Camp, which was arranged for 200 visitors, was situated near the Mori Gate of the city and was under the management of the Executive Committee,--applications being dealt with by the Secretary.

In both these camps (No. 1 and No 2) fully furnished tents fitted with boarded floors were provided, a staff of menial servants engaged, catering arrangements made at a fixed daily charge, and conveyances supplied to those who notified their wish to engage a vehicle for the fortnight. The articles provided in the tents comprised the usual camp furniture, including beds, mattresses and pillows, but not bed linen or towels. The residents of No. 1 Camp had their meals served in the dining room of the hotel and for the occupants of No. 2 Camp, as no large mess tents were obtainable, a temporary Mess building was constructed containing dining and drawing rooms, a smoking room, card room and cloak rooms. The camps were opened on the 20th December 1902 and closed on the 18th January 1903. The actual numbers accommodated in each camp were—

		Europeans.	*Servants.*	*Total.*
No. 1	... ...	180	300	480
No. 2	... ...	191	306	497

Appendices Nos. 1 and 2 are copies of the notices relating to these camps which were sent to the applicants for accommodation.

In Camp No 3, which was situated to the north of and close to the Central Camp, sites only were given to visitors who brought their own tents and made their own arrangements. An officer working under the Executive Committee had the ground marked off into convenient encamping sites and arranged for the water-supply and conservancy. The number of occupants of this camp was Europeans 355, servants 888,—total 1,243.

Special officers were appointed to hold charge of each of these three Visitors' Camps during the period that they were open and to give the occupants all necessary information and assistance.

* * * * * * * *

20. *Railways.*—The railway arrangements specially made for the Durbar Camps, in addition to the Light Railway, were as follows:

A branch line was constructed from the Delhi Umballa-Kalka Railway near the village of Azadpur up to the Durbar road close to which was located the terminal station named the Central Camp station. This branch line proved of the greatest value. The tent equipage and stores for the Central Camp and Military Camps situated east of Azadpur, and most of the occupants of the Central Camp were conveyed by it, thus easing the city station of an enormous amount of traffic which, judging from the pressure experienced, the railway authorities would hardly have been able to cope with satisfactorily.

A short length of line was also constructed taking off from the main line just north of the Cavalry Camp station to the Supply Depôt.

The following temporary stations were opened near the sites of the Provincial Camps and the Corps troops:—

(*i*) Cavalry Camp station on the Delhi-Umballa-Kalka Railway—a rail level passenger station.

(*ii*) Azadpur junction on the Delhi-Umballa-Kalka Railway which served the Punjab, Baluchistan, North-West Frontier Province, and Provincial Camps and the Imperial Service Troops.

(*iii*) Tannery station on the Southern Punjab Railway which served the Bengal Madras, Burma, Assam, Mysore, Baroda, United Provinces, Central Provinces, and Central India Provincial Camps. It was also used by the occupants of the Rajputana Provincial Camp who travelled to Delhi by the broad-gauge line.

(*iv*) West Camp station on the Rajputana-Malwa Railway close to the Tannery station which was established for the convenience of the occupants of the camps just mentioned travelling by the narrow-gauge line.

(*v*) Rohilla Serai station on the Rajputana-Malwa Railway for the Rajputana Provincial Camp.

(*vi*) Selimgarh station on the East Indian Railway close to the fort to which special trains were run from the Central Camp station on the nights of the State Ball and Investiture.

In addition to these stations the Southern Punjab Railway authorities established a flag station on the main line about ½ mile from the United Provinces Camp for residents of the camps travelling to and from the city.

* * * * * * *

25. *Water-courses.*—The number and lengths of the water-courses utilised by the cam s is given in Appendix No 3, the figures in which have been extracted from a statement furnished by the Executive Engineer, Delhi Division, Western Jumna Canal. From this table it will be seen that the total length of existing water-courses was 14·28 miles and of specially constructed extentions to these water-courses 20·75 miles.

* * * * * * *

47. *Accounts of Visitors' Camps No. 2 and No. 3 and of the Polo Club and ground*—Abstracts of the accounts of the Visitors' Camps Nos. 2 and 3 which were managed by the Executive Committee and of the Polo-ground are attached (Appendices No. 11 to No. 13). From these it will be seen that the receipts exceeded the expenditure as noted below:

	Rs.	A.	P.
Visitors' Camp No. 2 balance credit	4,238	15	5
" " No. 3 " "	5	4	6
Polo Club and ground " "	902	4	8

These sums have been credited to Government. The balance credit of Visitors' Camp No. 2 is mainly due to the cost of the carriage of the tents supplied by the Ordnance Department, for which a provision of Rs. 4,000 had been made in the estimate of the camp expenditure having been included for convenience of account in the general charge against the Durbar grant.

* * * * * * *

A. D. BANNERMAN, *Captain*,

Dated the 28th April 1903. *Secretary, Executive Committee,*

Coronation Durbar, Delhi.

L. W. DANE,

Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATIONS.

SEPARATE REVENUE.

POST OFFICE.

Simla, the 12th June, 1903.

No. 35:8-*S.R.*—In exercise of the power conferred by section 10 (1) of the Indian Post Office Act, 1898 (VI cf 1898), the Governor-General in Council is pleased to declare that the British Protectorate of Somaliland shall be added to the list of British Possessions

for which the letter rate of postage from India is one anna per half ounce, mentioned in Part I, Rule 3, of the Notification in this Department, No. 1429-C.—S. R., dated March 30th, 189;, published in the *Gazette of India* of the same date.

STATISTICS AND COMMERCE.

CUSTOMS.

The 11th June, 1903.

No. 3494-*S.R.*— In exercise of the power conferred by sub-section (2) of section 8-A of the Indian Tariff Act, 1894 (VIII of 1894, as amended by Acts III of 1896, XIV of 1899 and VIII of 1902), and in supersession of the rates of additional duty on the kinds of sugar exported from Holland, mentioned in the Notification in this Department, No. 6450-S.R., dated the 5th December 1902, the Governor-General in Council is pleased to declare that the rates shall be revised as follows, with effect from the 20th of June 1903:

For

Kinds of sugar.	Bounties bestowed.	Additional duties to be levied.
		Per cwt. Rs. A. P.
Raw sugar produced in Holland from beet-roots ...	1·26 florins per 100 kilograms of hard refined.*	0 11 9
Sugar refined from beet-root raw sugar produced in Holland.	1·31 florins per 100 kilograms ...	0 13 3
Sugar refined from imported raw sugar	·15 florin per 100 kilograms, in addition to bounty, if any, allowed on the raw sugar by the country of production.	0 1 6 in addition to countervailing duty, if any, on the raw sugar.

Read

Kinds of sugar.	Bounties bestowed.	Additional duties to be levied.
		Per cwt. Rs. A. P.
Raw sugar produced in Holland from beet-roots ...	1·75 florins per 100 kilograms of hard refined.*	1 1 9
Sugar refined from beet-root raw sugar produced in Holland.	1·94 florins per 100 kilograms ...	1 3 8
Sugar refined from imported raw sugar	·19 florin per 100 kilograms, in addition to bounty, if any, allowed on the raw sugar by the country of production.	0 1 11 in addition to countervailing duty, if any, on the raw sugar.

No. 3496-*S.R.*—The Governor-General in Council is pleased to direct that refunds shall be made of the difference, as indicated below, between (*a*) the rates of additional duty actually charged on the different kinds of Dutch sugar imported into India which were shipped from Holland, or from ports of other countries, from the 1st September 1901 to the 31st August 1902, inclusive, and (*b*) the rates now ascertained to be chargeable thereon after making allowance for the maximum bounty paid by the Government of the

* The output of refined sugar from raw is computed by deducting from the polarization of the raw sugar twice the glucose, four times the ashes, and one-and-a-half per cent. for loss in refining.

Netherlands. Such refunds will be made to the importers concerned, that is to say, to the person by whom the duty was originally paid, on application to the Collector of Customs to whom the duty was paid, evidence that the sugar was exported from Holland during the period mentioned above and evidence regarding the rate and amount of duty paid being furnished to the satisfaction of the Collector :

KINDS OF SUGAR	(a) RATES OF ADDITIONAL DUTY ACTUALLY CHARGED		(b) RATES NOW ASCERTAINED TO BE CHARGEABLE	DIFFERENCE TO BE REFUNDED	
	From the 1st September 1901 to the 28th February 1902.	From the 1st March 1902 to the 31st August 1902.	From the 1st September 1901 to the 31st August 1902.	On sugar on which the rates in column 2 have been charged.	On sugar on which the rates in column 3 have been charged.
1	2	3	4	5	6
	Per cwt. Rs. A. P.	*Per cwt.* Rs. A. P.	*Per cwt.* Rs. A. P	*Per cwt.* Rs. A. P.	*Per cwt.* Rs. A. P.
Raw sugar produced in Holland from beet-roots.	0 15 3	0 14 0	0 11 9	0 3 6	0 2 3
Sugar refined from beet-root raw sugar produced in Holland.	1 1 5	0 15 11	0 13 3	0 4 2	0 2 8
Sugar refined from imported raw sugar.	0 2 3	0 1 11	0 1 6	0 0 9	0 0 5

E. N. BAKER,

Offg. Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 11th June 1903.

No. 225.—Mr. H. C. Granville, Executive Engineer, 1st Grade, Punjab, is appointed to officiate as a Superintending Engineer, with effect from the 3rd June 1903, and until further orders.

SIDNEY PRESTON,

Secretary to the Government of India.

THE HONOURABLE THE AGENT TO THE GOVERNOR-GENERAL AND CHIEF COMMISSIONER, NORTH-WEST FRONTIER PROVINCE.

NOTIFICATION.

Peshawar, the 8th June 1903.

No. 112.—The services of Sheikh Amir Ali, B. A., Extra Assistant Commissioner, are replaced at the disposal of the Punjab Government, for employment in that Province, with effect from the afternoon of the 1st June 1903.

By order,

A. H. GRANT,

Secretary to the Chief Commissioner,

N.-W. Frontier Province.

Punjab Government Press, Lahore—18-6-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JUNE 25, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED MAY 30, 1903.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 29th May, 1903.

No. 200.—With reference to Government of India, Foreign Department, Notification No. 2394 I.-A., dated the 27th May 1903, the services of Rai Bahadur Ganga Ram, Executive Engineer, 1st Grade, are replaced at the disposal of the Government of the Punjab, with effect from the forenoon of the 4th May 1903.

SIDNEY PRESTON,

Secretary to the Government of India.

FROM THE "GAZETTE OF INDIA," DATED JUNE 20, 1903.

HOME DEPARTMENT.

NOTIFICATION.

POLICE.

Simla, the 18th June, 1903.

No. 514.—The services of Lieutenant-Colonel J. A. L. Montgomery, C.S.I., are replaced at the disposal of the Government of the Punjab, with effect from the 13th June 1903.

H. H. RISLEY,

Offg. Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATIONS.

SEPARATE REVENUE.

ASSESSED TAXES.

Income Tax.

Simla, the 18th June, 1903.

No. 3664-*S. R.*—In exercise of the powers conferred by Section 38 of the Indian Income-tax Act, 1886 (II of 1886), as amended by the Indian Income-tax (Amendment) Act, 1903 (XI of 1903), the Governor General in Council is pleased to direct that for rule 2 of the rules published in the Notification in the Finance and Commerce Department, No. 2763, dated the 6th June 1890, the following shall be substituted:

"2. The return required by Section 10 of the Act shall be in Form A hereto appended.

"The name of any person who is receiving, at the date of the return prescribed by Section 10 of the Act, a salary, pension, or annuity which does not amount to Rs. 600 per annum, or has received during the year ending on that date a gratuity which does not amount to that sum, need not be shown in the return."

STATISTICS AND COMMERCE.

CUSTOMS.

The 18th June, 1903.

No. 3654-*S. R.*—The Governor General in Council is pleased to direct that the operation of the Notification in the Finance and Commerce Department, No. 1248-S. R., dated the 3rd March 1903, shall be suspended until further orders.

SEPARATE REVENUE.

OPIUM.

The 19th June, 1903.

No. 3693-*Ex.*—In exercise of the power conferred by Section 6 of the Opium Act, 1878 (I of 1878), and in supersession of the Notification in this Department, No. 2307-Ex., dated the 18th May 1898, the Governor General in Council is pleased to direct that duty at the rate of Rs. 280 shall be levied, with effect from the date of this Notification, on each chest of Malwa opium of 140½ lb. avoirdupois net weight imported into the Punjab or the North-West Frontier Province through Ajmer :

Provided that the said duty shall not be leviable in respect of—

(*a*) poppy-heads ; or

(*b*) opium on which duty has already been paid on export from Ajmer to the Punjab or to the North-West Frontier Province.

No. 3694-*Ex.*—In exercise of the power conferred by Section 6 of the Opium Act, 1878 (I of 1878), and in supersession of the Notifications of the Government of India in the Finance and Commerce Department, No. 4713-S. R., dated the 5th October 1895, and No. 3613-Ex., dated the 17th July 1900, the Governor General in Council is pleased to direct that duty at the rate of Rs. 2 per seer shall be levied, with effect from the date of this Notification, upon all opium imported into the Punjab :

Provided that the said duty shall not be leviable in respect of—

(*a*) Malwa opium ;

(*b*) poppy-heads ; or

(*c*) opium on which duty has already been paid in the North-West Frontier Province.

[No]. 3695-*Ex.*—In exercise of the power conferred by Section 6 of the Opium Act, 1878), and in supersession of the Notifications of the Government of India in the [Finance an]d Commerce Department, No. 4713-S. R., dated the 5th October 1895, and [No. 3613-Ex]., dated the 17th July 1900, the Governor General in Council is pleased to

direct that duty at the rate of Rs. 2 per seer shall be levied, with effect from the date of this Notification, upon all opium imported into the North-West Frontier Province:

Provided that the said duty shall not be leviable in respect of—

(*a*) Malwa opium;

(*b*) poppy-heads; or

(*c*) opium on which duty has already been paid in the Punjab.

E. N. BAKER,

Offg. Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

RAILWAYS.

NOTIFICATION.

Simla, the 16th June, 1903.

No. 235.—The following promotions are ordered in the Superior Accounts Branch:

Name.	From	To	Nature of promotion.	With effect from
Mr. E. A. Dennys ...	Examiner, Class II ...	Examiner, Class I ...	Temporary	1903. 20th May
* *	* *	* *	*	* *

A. BRERETON,

Secretary to the Government of India.

Punjab Government Press, Lahore—25-6-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JULY 2, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED JUNE 13, 1903.

PUBLIC WORKS DEPARTMENT.

IRRIGATION ROADS AND BUILDINGS.

NOTIFICATIONS.

TELEGRAPHS.

Simla, the 10th June, 1903.

No. 218.—The following draft of a notification, which it is proposed to issue in exercise of the powers conferred by section 33 of the Indian Electricity Act, 1903 (III of 1903), is published for the information of all persons likely to be affected thereby, as required by section 34 (*1*) of the said section, and notice is hereby given that the said draft will be taken into consideration on or after the 15th day of September 1903.

Any objection or suggestion which may be received from any person with respect to the draft before the date specified will be considered by the Governor General in Council.

In exercise of the powers conferred by section 33 of the Indian Electricity Act, 1903 (III of 1903), the Governor General in Council is pleased to make the following rules relating to the supply of energy to the public under Part II of the said Act, namely:—

PRELIMINARY.

Definitions.

1. In these rules, unless there is anything repugnant in the subject or context,—

(*1*) the expression "consumer's wires" means any electric conductors on a consumer's premises which are connected with the service lines of the undertakers at the consumer's terminals;

(*2*) the expression "current" means an electric current;

(*3*) the expression "cut-out" means any appliance for interrupting the transmission of energy through any conductor when the current rises above the amount which the conductor is intended to transmit, and includes a safety fuse or other automatic disconnector;

(4) the expression "feeder" means a portion of any main used to convey energy from the source of supply to the point or points where it is distributed for use ;

(5) the expression "generator" means the dynamo or dynamos or other electrical apparatus used for the generation of energy;

(6) the expression "motor" means any electric motor used for the conversion of energy;

(7) the expression "pressure" means the difference of electric potential between any two conductors through which a supply of energy is given, or between any part of either conductor and the earth;

(8) the expressions "pressure," "high-pressure," and "extra high-pressure" are used in relation to electric supply-lines, conductors, circuits and apparatus according to the conditions of the supply delivered through the same or particular portions thereof;

(a) where the conditions of the supply are such that the pressure in any distributing main or in the case of electric traction, in any trolley line or other conductor used in direct electrical and mechanical connection with any tramcar, may at any time exceed 500 volts, if continuous, or 250 volts, if alternating, but cannot exceed 3,000 volts, whether continuous or alternating, the supply shall be deemed to be a "high-pressure supply;"

(b) where the conditions of the supply are such that the pressure may, on any system, exceed 3,000 volts, the supply shall be deemed to be an "extra high-pressure supply;"

(9) the expression "the Act" means the Indian Electricity Act, 1903 (III of 1903);

(10) the expressions "transformer," "transformed," and "transforming" are used in relation to any appliance by means of which energy of higher potential is converted to energy of lower potential, or *vice versâ*;

NOTE.—The expressions ohm, ampère and volt shall have the meanings assigned to them in the order of Council No. 211 of 1894 under the Weights and Measures Act of 1889.

2. Where these rules require any metallic body to be "efficiently connected with earth" such body shall be connected with the general mass of earth in such manner as will ensure at all times an immediate and safe discharge of energy.

RULES WITH RESPECT TO APPLICATIONS FOR LICENSES, AND CERTAIN POINTS IN CONNECTION THEREWITH.

Applications for licenses.

3. (1) Every application for a license shall be made in writing and shall be signed by, or on behalf of, the applicant and addressed to the Secretary to the Local Government in the Public Works Department. Every such application shall be headed by a short title descriptive of the proposed undertaking (corresponding with that at the head of the advertisement hereinafter mentioned), and be accompanied by—

(a) Six copies of the draft license as proposed by the applicant, with the annexure or annexures (if any) referred therein;

(b) A copy of the map of the district or town published on a scale of not less than six inches to a mile, or if there is no such published map then the best map procurable, showing the boundaries of the proposed area of supply, and the streets and other places in, over, or along which it is proposed to place any electric supply-lines or other works;

(c) A statement describing any lands which the applicant proposes to acquire for the purpose of the license under the provisions of the Land Acquisition Act, 1894;

(d) A list of any local authorities in whose districts the area of supply is situate;

(e) A list of any streets repairable—

(i) by the Local Government,

(ii) by a local authority,

(iii) by any private persons;

and of any railways, tramways and bridges which the applicant proposes to take powers to open, break up or interfere with;

(f) A list of any canals and navigable rivers which the applicant will be empowered under the license to cross;

(g) A statement of the capital proposed to be expended and employed in connection with the undertaking, and the mode in which such capital is to be provided;

(h) If the applicant is a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent, a copy of the memorandum and articles of association;

(*i*) A fee of Rs. 500 payable to the Secretary to the Local Government in the Public Works Department, to cover ordinary expenses: Provided that if, in consequence of enquiries or otherwise, additional expense is incurred, the amount shall be charged to the applicant and paid by him in addition to the ordinary fee.

Copies of map and license.

4. The applicant shall also deposit at his own office or at that of his agents, and at the office of every local authority within the proposed area of supply,—

(*a*) A copy of the map referred to in rule 3, sub-rule (2), clause (*b*), for public inspection, and

(*b*) A sufficient number of copies of the draft license to be furnished to all persons applying for them at a price not exceeding one rupee per copy.

Form of the draft license.

5. (1) The draft license shall be in print, printed on one side only of the paper, and each annexure shall begin a new page.

(2) The name and address of the applicant for the license and of his agent (if any) shall be printed on the outside of the draft.

Contents of the draft license.

6. The draft license shall contain the following particulars, namely:

(*a*) Address and description of the applicant;

(*b*) A description of the proposed area of supply;

(*c*) A statement of the purposes for which a supply is to be given;

(*d*) A general description of the proposed works and system of supply;

(*e*) A list of streets not repairable by the Local Government or by a local authority, and of railways, tramways and bridges, where powers are sought to be obtained by the licensee for opening, breaking up or interfering with them;

(*f*) A list of the canals and navigable rivers which the applicant seeks powers to cross;

(*g*) Conditions of supply, including maximum prices, nature, and amount of supply (if limited), and the like;

(*h*) Terms and conditions of purchase by any local authority concerned, and periods after which the right to purchase enures; and

(*i*) Any proposed modifications of the schedule to the Act, to be made, with the previous sanction of the Governor General in Council, by virtue of section 4, sub-section (1), clause (*f*), there of.

Advertisement of application and contents thereof.

7. (1) The applicant shall, within a week's time from the submission to the Local Government of the application under rule 3, publish notice of his application by public advertisement, accompanied by the following particulars, namely:

(*a*) Address and description of applicant;

(*b*) A description of the proposed area of supply;

(*c*) A statement of the purposes for which a supply is to be given;

(*d*) A general description of the nature of the proposed works;

(*e*) The names of any streets and other places in, over or along which it is proposed to place any electric lines or other works for the purposes of general supply;

(*f*) A list of any streets repairable—

(i) by the Local Government,

(ii) by a local authority,

(iii) by any private person;

and of any railways, tramways and bridges which the applicant proposes to take powers by the license to open, break up or interfere with;

(*g*) A list of any canals and navigable rivers which the applicant will be empowered under the license to cross;

(*h*) The office of the applicant, or his agent, if any, and of every local authority within the proposed area of supply at which a copy of the map referred to in rule 3, sub-rule (2), clause (*b*), is deposited for public inspection, and at which printed copies of the draft license, and of the license hereinafter referred to in rule 10, can be obtained at a price not exceeding one rupee per copy.

(2) The advertisement shall be headed by a short title descriptive of the undertaking, and it shall state that every local or other public authority, company, or person desirous of making any representation to the Local Government, or of bringing before it any objection

respecting the application, may do so by letter addressed to the Secretary to the Local Government in the Public Works Department, within two months of the date of issue of the newspaper containing the first advertisement.

(3) The advertisement shall be inserted in at least ten successive issues of the same newspaper published or circulated in the proposed area of supply, or in such other newspaper as the Local Government may direct; and once at least in the Local Gazette; and the Local Government must be advised as to the dates of such publication.

Local enquiries.

8. In all cases of application for a license to which objection is made by any person locally interested, the Local Government shall, if either the applicant or the objector so desires, hold a local enquiry, of which due notice shall be given.

Amendment of license.

9. If any local or other public authority, company, or person desires to have any clause inserted or other amendment made in the license, they shall deliver the same to the applicant, and also to the Local Government, on or before the time limited for bringing objections.

Copies of license for public inspection.

10. When a license has been granted by the Local Government and delivered to the applicant, he shall forthwith deposit printed copies for public inspection in the offices specified in rule 7, sub-rule (1), clause (h); and shall supply copies to all persons applying for the same at a price not exceeding one rupee per copy, and shall further publish the same in such manner as the Local Government may direct.

Application for written consent of Local Government to be by memorial.

11. Where a licensee desires the written consent of the Local Government under section 12 (4) of the Act to enable him to open or break up any street not repairable by a local authority, or any railway or tramway, application for such consent shall be made in writing and shall describe accurately the street, railway or tramway which he proposes to acquire power to open or break up and the extent to which he desires to open or break it up.

RULES FOR THE PROTECTION OF PERSON AND PROPERTY.

General.

Entry and inspection.

12. (1) Where a license has been granted to any person under section 3 of the Act, any electric inspector appointed under the Act may enter, inspect and examine any place in which the inspector has reason to believe that there are any appliances or apparatus used in the generation or supply of electricity.

(2) The licensee shall afford at all times all reasonable facilities to any such inspector or officer to make such examinations and tests as may be necessary to ensure the due observance of the Act, the license and the rules hereinafter contained; and shall, if and when required, forward to such inspector or officer all records of tests hereinafter specified to be made and recorded.

Testing appliances and apparatus.

13. The licensee shall provide all means for carrying out tests by or under the Act of the appliances or apparatus used in the generation or the supply and use of energy.

Pressure of supply to consumers.

14. The pressure of a supply delivered to any one consumer, other than a tramway authority, shall not exceed 250 volts at any two terminals, within reach of one another, and not under the sole control of the licensee, except with the express approval of the Local Government, which shall be given only on the joint application of the consumer and the licensee and subject to such further conditions as the Local Government may prescribe.

Pressure of supply to transforming apparatus.

15. The pressure of a supply delivered to a transforming station, or to a transforming apparatus, on a consumer's premises may exceed 250 volts, but shall not exceed the limits of high pressure, except with the express approval of the Local Government, which shall be given only on the joint application of the consumer and the licensee, and subject to such further conditions as the Local Government may prescribe.

Minimum size of conductors.

16. The sectional area of the conductor in an electric supply-line placed in, over or along any street after the commencement of these rules shall not be less than the area of a circle of one-tenth of an inch diameter, or in the case of an aërial line, than the area of a No. 8 wire of the British Standard Wire Gauge; and where the conductor is formed of a strand of wires, each separate wire shall be at least as large as No. 20 British Standard Wire Gauge.

Earthing of metallic protection of insulating materials.

17. Where the insulating material on any electric supply-line is protected wholly or partly by an external metallic covering, such metallic covering shall be efficiently connected with earth.

Insulation test of mains.

18. Every low pressure main shall be tested by the licensee for insulation after having been placed in position, and before it is used for the purposes of supply, the testing pressure being at least double the maximum working pressure; and the licensee shall record the results of the tests of each main or section of a main or distributing main.

Leakages.

19. Suitable means shall be provided by the licensee for the immediate indication and localisation of leakage, and every leakage shall be remedied without delay.

High-pressure and extra high-pressure supply.

Testing of insulation of high-pressure or extra high-pressure circuit.

20. (*1*) No high-pressure circuit shall be brought into use unless the insulation of every part thereof has withstood the continuous application during one hour of pressure equal to, or exceeding, the maximum pressure to which it is intended to be subjected in use to the following extent, that is to say—

(*a*) in the case of every high-pressure electric supply-line, twice the said maximum pressure, and in the case of every high-pressure machine, device, or apparatus, 50 per cent. greater than the said maximum pressure, or,

(*b*) in the case of extra high pressure supply, equal to the said maximum working pressure in each case.

(*2*) The licensee shall record the results of each test.

Safety devices for the protection of consumer's wires.

21. In every case in which a high pressure supply is transformed for the purpose of supply to one or more consumers, the best available automatic and quick-acting means shall be provided by the licensee to protect the consumer's wires from any accidental contact with, or leakage from, the high-pressure system, either within or without the transforming apparatus.

Protection from lightning.

22. (*1*) Where any portion of an electric supply-line or any support for an electric supply-line is exposed in such a position as to be liable to injury from lightning, the licensee shall adopt efficient means for protecting it against injury.

(*2*) Lightning arresters shall be capable of supporting successive discharges without attention.

Aërial Lines.

Limit of power in aërial lines.

23. (*1*) Where the Local Government has approved of the methods of construction proposed for adoption in any system of aërial lines, it may, with due regard to climatic and electrical conditions, determine the maximum kilowatts which may be transmitted by any such line or system of lines carried on a single alignment of supports in any street.

(*2*) The licensee shall ascertain the maximum limit, if any, determined by the Local Government before commencing the erection of the aërial line, and efficient means shall be taken by the electric inspector to prove that this limit is not being at any time exceeded.

Maximum intervals between supports.

24. Where, in the opinion of an electric inspector, under rule 12 the nature of the ground admits of it—

(*a*) Every aërial line shall be attached to supports at intervals not exceeding the following spans where the direction of the line is straight, namely:

(i) For a line of copper of total section not exceeding ·25 square inch, or equivalent weight of wires of other metals, 200 feet;

(ii) For a line of copper of total section ·25 to ·5 square inch, 175 feet; and

(iii) For a line of copper of total section exceeding ·5 square inch, 150 feet.

(*b*) Where the direction of the line is curved, or where the line makes a horizontal angle at the point of support, the spans shall not exceed two-thirds of those laid down in clause (*a*):

Provided that the Local Government may in any license, or by order in writing, modify this rule as it thinks fit.

Construction and erection of supports.

25. (*1*) Every support of an aërial line shall be of a durable material, firmly erected and, where necessary, properly staged against forces due to wind pressure, change of direction of the line or unequal lengths of span.

(2) The factor of safety of the aërial line shall, at the minimum temperature of the locality, be at least four and the factor of safety of all other parts of the structure at least four under all conditions, the maximum possible wind pressure being taken at 50 lbs. per square foot.

(*3*) For cylindrical bodies, such as posts and wires, the effective area shall be taken as two-thirds of the total area exposed to pressure.

(*4*) Every support, if of metal, shall be efficiently connected with earth in so far as the nature of the ground in which the support is fixed makes this practicable.

Height from ground and distance from buildings.

26. Except as otherwise directed in rules 67 and 68, no part of any aërial line shall be at a less height from the ground than 20 feet, or within 5 feet measured horizontally or 7 feet measured vertically from any building or erection other than a support for the line, unless it has been brought into a building for the purpose of supply:

Provided that the Local Government may, by order in writing, permit any modification of this rule which it considers necessary.

One side of street only to be occupied.

27. Except with the approval of the Local Government and of the telegraph authority, aërial lines shall be carried along only one side of a street.

Service lines from aërial lines.

28. (*1*) Aërial service lines shall be led as directly as possible to insulators firmly attached to some portion of the consumer's premises and (unless surrounded or guarded by a suitable metallic guard efficiently connected with earth) at a distance not less than 5 feet therefrom.

(*2*) Such service lines shall not be accessible to any person without the use of a ladder or other special appliance, and from the point of attachment they shall be enclosed and protected in accordance with the rules hereinafter contained as to licensee's lines on consumer's premises.

Angle of crossing street.

29. (*1*) Where an aërial line, other than a trolley wire for electric traction, crosses a street, the angle between the line and the direction of the street at the place of crossing shall not be less than 60°, and there shall be no joint in any wire at the place of crossing.

(*2*) Where the width of the street exceeds 30 feet, a support shall be erected by the licensee on each side of it, and the space between such supports shall be as short as practicable:

Provided that this rule shall not apply to service lines protected with a device, approved by the Local Government, for rendering any line harmless in case it breaks:

Provided also that the Local Government may, by order in writing, permit any modification of this rule which it considers necessary.

Crossing wire.

30. (*1*) Where an aërial line crosses, or is in proximity to, an aërial line belonging to another licensee, or to any telegraph wire not protected with a permanent insulating covering, adequate precautions shall be taken by the licensee against the possibility of his line coming into contact with the other line or wire, or of the other line or wire coming into contact with his line, by breakage or otherwise.

(*2*) The guarding of aërial lines shall be carried out in such manner as the Local Government, after consultation with the telegraph authority, may by general or special order in any case direct.

(*3*) A licensee shall not commence the supply of energy through any aërial line until it has been guarded and protected as required by sub-rules (*1*) and (*2*) wherever it crosses or is crossed by any existing aërial line or telegraph wire.

(*4*) On receiving notice that a new aërial line or telegraph wire is, or will be, erected across an existing aërial line, the licensee shall arrange to have his line guarded at such place within 15 days of the receipt of the notice, and in such case the actual expense incurred in erecting the guard wires shall be refunded to the licensee by the owner of the new aërial line or telegraph wire.

(*5*) Where an aërial line crosses or is liable to be blown on to a metal roof or any other metallic substance, efficient means shall be taken by the licensee to prevent the electrical charging of the same in case of accident; and there shall be no joint in any such span of an aërial line.

High pressure and low-pressure aërial lines not allowed on same supports.

31. (*1*) High pressure and low pressure aërial lines shall in no case be carried on the same supports except when they cross one another at right angles.

(*2*) Whenever a high pressure aërial line crosses a low-pressure aërial line it shall pass at least 3 feet above the low-pressure aërial line, and the provisions of rule 31 shall apply.

High-pressure and extra high-pressure aërial lines.

32. The following precautions shall be taken by the licensee with regard to high-pressure and extra high-pressure aërial lines, namely:

(*a*) Every support of a high-pressure or extra high-pressure aërial line shall be painted bright red.

(*b*) Arrangement shall be made to prevent any person from climbing up such a support without the use of a ladder or special device.

(c) Where the high pressure conductors cross over a public road, railway or canal, a suitable device shall be fitted up to render any wire harmless if it should break.

(d) Stay wires on any such support shall be broken electrically below the line wires by the interposition of suitable strain insulators, unless efficiently connected with earth through a suitable earth plate.

Suspending wires.

33. (1) Every high-pressure aërial line, if continuously covered with insulating material, shall be efficiently suspended by means of insulating ligaments to suspending wires, so that the weight of the line may not produce any sensible stress in the direction of its length.

(2) All suspending wires, if of iron or steel, shall be galvanised.

Maintenance.

34. Every aërial line, including its supports and all the structural parts and electrical appliances and devices belonging to, or connected with, the line, shall be duly and efficiently supervised and maintained by the licensee as regards both electrical and mechanical conditions.

Unused aërial lines to be removed.

35. The licensee shall not leave an aërial line erected after it has ceased to be used for the supply of energy, unless he intends within a reasonable time again to take it into use.

Electric Supply-lines and apparatus other than Aërial Lines.

Crossing metallic substances.

36. Where an electric supply-line crosses, or is in proximity to, any metallic substance precautions shall be taken by the licensee against the possibility of the metallic substance becoming charged.

Precautions against charging.

37. Where isolated lengths of metal conduits, pipes or casings are used for the protection of any electric supply-line at road crossings or in similar positions, special precautions shall be taken by the licensee to prevent the possibility of any electrical charging thereof.

Precaution in case of bare underground conductors.

38. (1) Where the conductors of electric supply-lines placed in any conduit are not continuously covered with insulating material, they shall be secured in position, and no unfixed uninsulated material of a conducting nature shall be contained in the conduit nor shall the pressure in such conductor be higher than 500 volts.

(2) Adequate precautions shall also be taken by the licensee to ensure that no accumulation of gas or water shall take place in any part of the conduit and to prevent any dangerous access of moisture to the conductors or the insulators.

(3) The insulators shall be so disposed that they can be readily inspected.

(4) The restriction in sub-rule (1) as to pressure shall not apply where an aërial line is taken into a conduit for the purpose of passing through an embankment or similar obstruction.

High pressure electric supply-lines laid above ground.

39. Every portion of a high-pressure electric supply-line placed above the surface of the ground (not being an aërial line) or in any sub-way not in the sole occupation of the undertakers, shall be completely enclosed either in a tube of highly insulating material embedded in brickwork, masonry, or cement concrete, or in a strong metal casing efficiently connected with earth.

High pressure electric supply-lines laid under ground.

40. Where a high-pressure electric supply-line is laid beneath the surface of the ground, efficient means shall be taken by the licensee to render it impossible that the surface of the ground or any neighbouring electric supply-line or conductor shall become charged by leakage therefrom.

Transforming stations.

41. (1) Transforming stations which are not on a consumer's premises, shall be established in suitable places in the sole occupation and charge of the licensee.

(2) The covers and frames and other metallic parts (other than parts of the electrical circuit) of all high pressure and extra high pressure apparatus of every description shall be either efficiently connected with earth or, if insulated, shall be so placed and arranged that it is impossible for any person to obtain a shock to earth from them.

Street-boxes and junction pillars.

42. (1) The cover of every street-box and junction pillar shall be so secured that it cannot be opened except by means of a special appliance.

(2) The covers of all street-boxes and junction pillars containing high-pressure apparatus other than cables shall be connected with strips of metal laid immediately beneath the adjacent roadway, and efficient means shall be taken to render it impossible that the covers or other exposed parts of such boxes, or any adjacent material forming the surface of the street, shall become electrically charged, whether by reason of leakage, defect or otherwise.

(3) Where street-boxes are used as transformer chambers, reasonable means shall be taken by the licensee to prevent, as far as possible, any influx of water either from the adjacent soil or by means of pipes, and in the case of any such street-box exceeding one cubic yard in capacity, ample provision shall be made, by ventilation or otherwise, for the immediate escape of any gas which may by accident have obtained access to the box, and for the prevention of danger from sparking.

(4) Every street-box shall be regularly inspected for the presence of gas, and, if any influx or accumulation is discovered, the licensee shall give immediate notice to the authority or company (if any) whose gas mains are laid in the neighbourhood thereof.

Licensee's lines on Consumer's Premises.

Responsibility of licensee for their conductors on consumer's premises.

43. The licensee shall be responsible that all electric conductors, fittings, and apparatus belonging to him, or under his control, which may be upon a consumer's premises, are maintained in a safe condition and in all respects fit for supplying energy.

Main fuses or disconnectors to be provided in locked receptacles.

44. (1) A suitable cut-out shall be inserted in each service line within a consumer's premises as close as possible to the point of entry and contained within a suitable locked or sealed receptacle of fireproof construction throughout, and shall be under the sole control of the licensee, except in cases where the service line is protected by fuses at the point of connection to the distributing main.

(2) If the receptacle is of porcelain or other substance liable to be easily broken, it shall be suitably protected against injury, and such protection shall also be fireproof.

Service lines on consumer's premises.

45. So much of any service line as is not an aërial line and is placed on a consumer's premises shall be highly insulated and enclosed either in an electrically continuous metallic covering efficiently connected with earth or in a tube of porcelain or earthenware.

Transformers and high pressure apparatus to be enclosed in metal.

46. Where the general supply of energy is a high-pressure supply and transforming apparatus is installed on a consumer's premises, the whole of the high-pressure service lines, conductors, and apparatus, including the transforming apparatus itself, so far as they are on the consumer's premises, shall be completely enclosed in solid walls or in a strong metal casing efficiently connected with earth, and shall be securely fastened throughout.

Connections to consumers not to be made where leakage would result.

47. The licensee small not connect the wires and fittings on a consumer's premises with his mains unless he is reasonably satisfied that the connection will not cause a leakage from those wires and fittings exceeding one five-thousandth part of the maximum supply current to the consumer's premises ; and, where the licensee declines to make such a connection, he shall serve upon the consumer a notice stating his reasons for so declining.

Discontinuance of supply on discovery of leakage on consumer's premises.

48. (1) If the licensee is reasonably satisfied, after making all proper examination by testing or otherwise, that a leakage exists at some part of a circuit of such extent as to be a source of danger, and that such leakage does not exist at any part of a circuit belonging to the licensee, then any person authorized in writing by the licensee in accordance with the provisions of the Act in that behalf, or, on the application of the licensee, an electric inspector under rule 12, may, for the purpose of discovering whether the leakage exists at any part of a circuit within or upon any consumer's premises, after giving the consumer reasonable notice in writing, inspect and test the wires and fittings belonging to the consumer and forming part of the circuit.

(2) Where the licensee obtains the services of an electric inspector under this rule, he shall pay such fee as the Local Government may fix in that behalf.

(3) If, on testing in the manner referred to in sub-rule (1), the person authorized by the licensee or the eletric inspector as aforesaid discovers a leakage from the consumer's wires exceeding one five-thousandth part of the maximum supply current to the premises, or if the consumer does not give all reasonable facilities for inspection and testing, the licensee may forthwith discontinue the supply of energy to the premises in question, giving immediate notice of the discontinuance to the consumer, and need not recommence the supply until he is reasonably satisfied that the leakage has been stopped.

Appeal to officer authorized under rule 13.

49. (1) If any consumer is dissatisfied with the action of the licensee in refusing to give, or in discontinuing, or in not recommencing, the supply of energy to his premises, the wires and fittings of such consumer may, on his application and on payment of the prescribed fee, be tested for the existence of leakage by an electric inspector authorized under rule 12.

(2) This rule shall be endorsed on every notice given under the provisions of rule 47 or rule 48.

Arc lighting.

50. An isolation switch shall be provided for every arc lamp on any high pressure electric supply-line, and the switch shall be of such pattern and construction as will provide—

Isolation switch.

(*a*) that the lamp can by its means be entirely disconnected from the supply circuit;

(*b*) that the switch itself can be safely worked in the dark without special precautions;

(*c*) that there shall be no danger of any injurious electrical arcing, sparking, or heating being caused by the operation of the switch; and

(*d*) that where the switch is accessible without the use of a ladder or special appliance, it shall be in a locked metallic receptacle efficiently connected with earth.

ADDITIONAL RULES FOR ELECTRIC TRACTION (CONTINUOUS CURRENT).

51. Any dynamo used as a continuous current generator shall be of such pattern and construction as to be capable of producing a continuous current without appreciable pulsation.

Continuous current.

52. (*1*) One of the two conductors used for transmitting energy from the generator to the motor, and hereinafter referred to as the "line," shall be in every case insulated from earth.

"Line," "return," and "trolley wire."

(*2*) The other, hereinafter referred to as the "return," may be insulated throughout, or may be uninsulated in such parts and to such extent as is provided in the following rules.

(*3*) A suspended aërial line from which energy is transmitted into any car is hereinafter referred to as a "trolley wire."

53. (*1*) Where any rails on which cars run or any conductors laid between or within three feet of such rails form any part of a return, such part may be uninsulated.

Insulation of "return."

(*2*) All other returns or parts of a return shall be insulated, unless of such sectional area as will ensure compliance with rule 58.

54. (*1*) Where any uninsulated conductor forms any part of a return, it shall be of such section, and the several lengths shall be so connected together, as to ensure compliance with rule 57.

Bonding of "return."

(*2*) Where any uninsulated conductor is laid between, or within three feet of, the rails, it shall be electrically connected to the rails at distances apart not exceeding 100 feet by means of copper strips having a sectional area of at least one-sixteenth of a square inch, or by other means of equal conductivity.

55. (*1*) Where any part of a return is uninsulated, it shall be connected with the negative terminal of the generator, and in such case the negative terminal of the generator shall also be directly connected, through the current indicator hereinafter mentioned, with two separate earth connections which shall be placed not less than twenty yards apart:

Return to be negative and earthed.

Provided that in place of such two earth connections the licensee may make one connection with a main for water-supply of not less than three inches internal diameter, with the consent of the owner thereof and of the person supplying the water:

Provided, also, that where, from the nature of the soil or for other reasons, the licensee can show to the satisfaction of an electric inspector appointed under rule 12 that the earth connections herein specified cannot be constructed and maintained without unreasonable expense, the provisions of this rule shall not apply.

(*2*) The earth connections referred to in this rule shall be constructed, laid, and maintained so as to secure electrical contact with the general mass of earth, and so that the resistance from one earth connection to the other through the earth shall not exceed two ohms; and a test shall be made by the licensee at least once in every month to ascertain whether this requirement is complied with.

(*3*) No portion of either earth connection shall be placed within six feet of any pipe, except a main for water-supply of not less than three inches internal diameter which is metallically connected with the earth connections with the consent of the persons hereinbefore specified.

56. (*1*) Where the return is partly or entirely uninsulated, the licensee shall, in the construction and maintenance of a tramway,—

Earth return current.

(*a*) so separate the uninsulated return from the general mass of earth and from any pipe, metallic structure or substance in the vicinity,

(*b*) so connect together the several lengths of the rail,

(*c*) adopt such means for reducing the difference produced by the current between the potential of the uninsulated return at any one point and the potential of the uninsulated return at any other point, and

(*d*) so maintain the efficiency of the earth connections specified in the preceding rules,

as to fulfil the following conditions, namely:

(*i*) The current passing from the earth connections through the indicator to the generator shall not at any time exceed either two ampères per mile of single tramway line or 5 per cent of the total current output of the station ; and

(*ii*) The difference of potential between the uninsulated return and any pipe, metallic structure, or substance in the vicinity shall not exceed five volts when the return is relatively positive or two volts when the return is relatively negative.

(2) In order to provide a continuous indication that the condition specified in clause (*i*) is complied with, the licensee shall provide a suitable recording ampèremetre, and shall keep it connected during the whole time that the line is charged.

(3) The owner of any pipe, metallic structure or substance in the vicinity of an uninsulated return may, in respect of the same, require the licensee at reasonable times and intervals to ascertain by test in his presence, or in that of his representatives, whether the conditions specified in clause (*ii*) are complied with; and if those conditions are found to be complied with, all reasonable expenses of and incidental to the carrying out of such test shall be borne by the owner, but if otherwise, by the licensee.

Difference of potential on return.

57. (*1*) Where the return is partly or entirely uninsulated, a continuous record shall be kept by the licensee of the difference of potential during the working of the tramway between the points of the uninsulated return furthest from and nearest to the generating station.

(2) If at any time such difference of potential is found to exceed five volts, the licensee shall thereafter make a daily report to the Local Government, or to such officer as the Local Government may authorise in this behalf, of the result of the previous day's test, and if at any time it exceeds the limit of seven volts, the licensee shall take immediate steps to reduce it below that limit :

Provided that the Local Government may, in its discretion, relax the provisions of this rule in localities where it is unnecessary to enforce them :

Provided, also, that the limit of five volts shall in no case be considered a figure to be worked up to in calculating the fall of potential due to the full conductivity of the return.

Isolation of sections.

58. Except with the written approval of the Local Government the line wire shall be divided up into sections not exceeding one-half of a mile in length, between every two of which shall be inserted an emergency switch, which apparatus shall be so enclosed as to be inaccessible to the public.

Leakage on other than conduit system.

59. (*1*) The insulation of the line and of the return when insulated, and of all feeders and other conductors, shall be so maintained that the leakage current shall not exceed one-hundredth of an ampère per mile of tramway.

(2) The leakage current shall be ascertained daily by the licensee before or after the hours of running when the line is fully charged.

(3) If at any time it is found that the leakage current exceeds one-half of an ampère per mile of tramway, the leak shall be localised and removed as soon as practicable, and the running of the cars shall be stopped unless the leak is localised and removed within twenty-four hours :

Provided that this rule shall not apply where both line and return are placed within a conduit.

Variations in the current.

60. In the construction and working of the cars care shall be taken to provide for as gradual variation of the current as is practicable.

Records.

61. (*1*) The licensee shall, so far as may be applicable to his system of working, keep records as specified below.

(2) These records shall, if and when required, be forwarded for the information of any electric inspector authorized by the Local Government in this behalf.

Daily Records.

Number of cars running.

Maximum working current.

Maximum working pressure.

Maximum current from the earth connections as prescribed by rule 56, sub-rule (1), clause (*i*).

Leakage current as prescribed by rule 59 and rule 70, clause (*a*).

Fall of potential in return prescribed by rule 57.

Monthly Records.

Condition of earth connections as prescribed by rule 55, sub-rule (*2*).

Occasional Records.

Any tests made under provisions of rule 56, sub-rule (*3*).

Localization and removal of leakage, stating time occupied.

Particulars of any abnormal occurrence affecting the electric working of the tramway.

Circuit to be inaccessible to passengers.

62. Passengers shall not have access to any portion of the electric circuit having a greater difference of potential to earth than 100 volts.

Connections on cars.

63. All electric mains, leads, and connections used in or upon any car shall be of ample size and thoroughly insulated and protected by cut-outs, which will operate to break the circuit before the current has risen to an amount which would cause any injurious heating of the conductors, and the length of every safety fuse in the clear shall not be less than two inches.

Conductors on carriages.

64. All electrical conductors fixed upon the carriages shall be protected wherever they are adjacent to any metal, so as to avoid risk of the metal becoming charged.

Collector standards.

65 Every collector standard which is accessible to passengers shall be electrically connected with the wheels of the carriage in such manner as to prevent the possibility of this standard becoming electrically charged from any defect in the electrical conductors contained within it.

Limit of pressure.

66. The electrical pressure between suspended conductors used in direct electrical connection with the working of any tramway by electrical power and the earth, or between any two such suspended conductors, shall in no case, without the special permission of the Local Government, exceed 500 volts continuous pressure.

Height of conductors.

67. Unless the Local Government otherwise directs,—

(*a*) The trolley wire shall be in no part at a less height from the surface of the street than 17 feet, except where the line passes under a bridge or other fixed structure, in which case the trolley wire must be suspended to the satisfaction of the inspector or other officer appointed in that behalf ;

(*b*) The intervals between the supports shall not exceed 120 feet.

Height of feeders.

68. Where the feeders of any tramway are on the same supports as the trolley wire, the provisions of rule 27 shall not apply.

Emergency switch.

69. An emergency cut-off switch shall be provided and fixed so as to be conveniently reached by the driver in case of any failure of action of the controller switch.

Conduit system.

70. Where a conduit system of electric traction is employed, the following conditions shall be complied with in the construction and maintenance of such conduit, namely:

(*a*) The conduit shall be so constructed—

(*i*) as to admit of easy examination of, and access to, the conductors contained therein and their insulators and supports ;

(*ii*) as to be readily cleared of accumulation of dust or other *débris*, and no such accumulation shall be permitted by the licensee to remain?

(*b*) The conduit shall be laid to such falls and so connected to sumps or other means of drainage as to clear itself automatically of water without danger of the water reaching the level of the conductors.

(*c*) Where the conduit is formed of metal, all separate lengths shall be so jointed as to secure efficient metallic continuity for the passage of electric currents; and where the rails are used to form any part of the return, they shall be electrically connected to the conduit by means of copper strips having a sectional area of at least one-sixteenth of a square inch or other means of equal conductivity, at distances not exceeding 100 feet ; and where the return is wholly insulated and contained within the conduit, the conduit shall be connected with earth at the generating station through an instrument suitable for the indication of any contact or partial contact of either the line or the return with the conduit.

(*d*) The leakage-current shall be ascertained by the licensee daily, before or after the hours of running, when the line is fully charged; and, if at any time it shall be found to exceed half an ampère per mile of tramway, the leak shall be localised and removed as soon as practicable, and the running of the cars shall be stopped, unless the leak is localised and removed within twenty-four hours.

RULES FOR THE SECURING OF A REGULAR AND SUFFICIENT SUPPLY OF ELECTRICAL ENERGY BY LICENSEES AND FOR TESTING THE SUPPLY THEREOF TO CONSUMERS.

Notice of intention to supply through mains.

71. Forty-eight hours at least before the licensee is ready to commence to supply energy through any main, he shall serve a notice upon the local authority and upon the electric inspector authorized under rule 12 of his intention to commence such supply.

Licensee to provide constant supply.

72. From the time when the licensee commences to supply energy through any main, he shall, subject to the provisions of his license in this behalf, maintain a supply of sufficient power for the use of all the consumers for the time being entitled to be supplied from such main; and such supply shall, except so far as may be otherwise agreed upon from time to time between the local authority and the licensee, be constantly maintained:

Provided that, for the purposes of testing, or for any other purposes connected with the efficient working of the undertaking, the Local Government, or such person as it may appoint in that behalf, may give permission to the licensee to discontinue the supply at such intervals of time and for such periods as it may think expedient: Provided also that, when the supply is to be so discontinued, notice of such discontinuance, and of the probable duration thereof, shall be previously served upon the local authority and upon every consumer affected thereby.

Provisions as regards stoppage.

73. The system of distributing mains shall be so arranged that if in any case it becomes necessary to stop the supply through any portion of a main for more than one hour, for the purposes of repairs, or for any other reason, the stoppage of supply will in no case extend to more than one hundred service lines.

Declared pressure at consumer's terminals and authorized variation of the same.

74. Before commencing to give a supply of energy to any consumer, the licensee shall declare to such consumer the constant pressure at which he proposes to supply energy at that consumer's terminals, and the pressure so declared at any pair of consumer's terminals shall not at any time be altered or departed from, except with the consent of the Local Government:

Provided that the licensee shall be deemed to have complied with the requirements of this rule so long as the variation of pressure at any consumer's terminals does not, under any conditions of the supply which the consumer is entitled to receive, exceed 4 per cent. from the declared constant pressure, unless changes in pressure recur so frequently as to cause unsteadiness in the supply.

RULES FOR THE PREPARATION AND SUBMISSION OF ACCOUNTS BY LICENSEES.

Date for submission of accounts.

75. Every licensee shall prepare and render an annual statement of accounts of his undertaking to the Local Government on or before the 30th June of the year following that for which the accounts are made up.

Date to which accounts are to be made up.

76. The accounts shall be made up to the 31st day of December in every year.

Forms of accounts.

77. The accounts shall be made up in one or other of the forms hereto annexed, according as the licensee is not a local authority and according as the supply is for traction or for any other purpose.

Accounts to be for sale.

78. After rendering the annual statement of accounts to the Local Government, the licensee shall keep copies of the same, together with the report made by the auditor appointed under the Act or such portion of the report as the Local Government may in any case direct, and shall sell copies of the same to any applicant at a price not exceeding one rupee.

RULES TO AUTHORIZE AND REGULATE THE LEVY OF FEES.

Levy of fees.

79. The following fees shall be paid to the Local Government for any testing or inspection by any electric inspector and for the services (other than testing or inspection) of any electric inspector, namely:

(*a*) where any works belonging to any consumer using energy in the manner referred to in rule 80 are tested or inspected such consumer shall pay a fee

of one rupee for every kilowatt of his maximum demand subject to a minimum of Rs. 16 and a maximum of Rs. 200;

(*b*) where any difference or dispute arising under section 30, sub-section (7) of the Act is determined by an electric inspector a fee of Rs. 16 (in addition to the costs as laid down in the Act) shall be paid as therein directed; and

(*c*) where any meter is certified, or any test is carried out other than those laid down herein, there shall be levied a fee of such amount, and payable by such person, as the Local Government, or any person authorized by it in this behalf, may determine.

GENERAL.

Rules for consumers' factories.

80. Where any consumer uses energy, supplied to him by a licensee, in any factory or other place mentioned in Part III, section 31, of the Indian Electricity Act, 1903, he shall comply with the rules in force for persons using energy under Part III of that Act in the same manner as if the energy were not supplied by a licensee.

81. Any licensee who commits any breach of these rules shall be punishable for every such breach with fine which may extend to Rs. 100, and in the case of a continuing breach, with a further daily fine which may extend to Rs. 50.

No. 219.—The following draft of a notification, which it is proposed to issue in exercise of the powers conferred by section 33 of the Indian Electricity Act, 1903 (III of 1903), is published for the information of all persons likely to be affected thereby, as required by section 34 (*1*) of the said section, and notice is hereby given that the said draft will be taken into consideration on or after the 15th day of September 1903.

Any objection or suggestion which may be received from any person with respect to the draft before the date specified will be considered by the Governor General in Council.

In exercise of the powers conferred by section 33 of the Indian Electricity Act, 1903 (III of 1903), the Governor General in Council is pleased to make the following rules imposing restrictions on the use of energy, not supplied under Part II of the said Act, at a pressure exceeding 100 volts, namely:—

Preliminary.

Definitions.

1. In these rules, unless there is anything repugnant in the subject or context,—

(*1*) The expression "current" means an electric current;

(*2*) the expression "cut-out" means any appliance for interrupting the transmission of energy through any conductor when the current rises above the amount which the conductor is intended to transmit, and includes a safety fuse or other automatic disconnector;

(*3*) the expression "pressure" means the difference of electric potential between any two conductors through which a supply of energy is given, or between any part of either conductor and the earth;

(*4*) the expressions "pressure," "high pressure," and "extra high pressure" are used in relation to electric supply-lines, conductors, circuits, and apparatus according to the conditions of the supply delivered through the same or particular portions thereof;

(*a*) Where the conditions of the supply are such that the pressure may at any time exceed 500 volts, if continuous, or 250 volts, if alternating, but cannot exceed 3,000 volts, whether continuous or alternating, the supply shall be deemed to be a "high pressure supply";

(*b*) where the conditions of the supply are such that the pressure may, on either system, exceed 3,000 volts, the supply shall be deemed to be an "extra high pressure supply";

(*5*) the expression "the Act" means the Indian Electricity Act, 1903;

(*6*) the expression "the owner" means any person using energy at a pressure exceeding 100 volts;

(*7*) the expressions "transformer," "transformed," and "transforming" are used in relation to any appliance by means of which energy of higher potential is converted to energy of lower potential, or *vice versa*;

Efficient connection with earth.

2. Where these rules require any metallic body to be "efficiently connected with earth," such body shall be connected with the general mass of earth in such manner as will ensure at all times an immediate and safe discharge of energy.

Protection of Person and Property.

Entry and inspection.

3. (*1*) Where notice has been given by any person under section 31 of the Act, the District Magistrate or, in a Presidency-town, the Commissioner of Police, shall, on receiving such notice, forthwith report the circumstance to the Local Government, and thereupon any electric inspector appointed under the Act may enter, inspect, and examine any place in which the inspector or officer has reason to believe that there is any appliance or apparatus used in the generation, supply, or use of electricity.

(*2*) The owner shall afford at all times all reasonable facilities to any such inspector to make such inspections and tests as may be necessary to ensure the due observance of the Act and the rules hereinafter contained, and shall, if and when required, forward to such Inspector or Officer all records of tests hereinafter specified to be made and recorded.

Pressure of supply.

4. The pressure of the supply generated by any owner shall not exceed the limits of low pressure except with the express approval of the Local Government in each case.

Liability to shock.

5. The owner shall take reasonable precautions to guard against the liability of any person to shock due to accidental contact with exposed terminals.

Earthing of metallic protection of insulating materials.

6. Where the insulating material on any electric supply line is protected by an external metallic covering such metallic covering shall be efficiently connected with earth.

Safety devices for the protection of consumer's wires.

7. In every case in which a high pressure supply is transformed for the purposes of use, some suitable automatic and quick acting means shall be provided to protect the low pressure wires from any accidental contact with, or leakage from, the high pressure system, either within or without the transforming apparatus.

Protection from lightning.

8. (*1*) Where any portion of an electric supply line or any support for an electric supply line is exposed in such a position as to be liable to injury from lightning, the owner shall adopt efficient means for protecting it against such injury.

(*2*) Lightning arresters shall be capable of supporting successive discharges without attention.

Aërial Lines.

Minimum size of conductors.

9. The sectional area of the conductor in an aërial line erected by any owner after the commencement of these rules shall not be less than the area of a No. 8 wire or, where the span is less than 50 feet, a No. 14 wire of the British Standard Wire Gauge.

Span of insulated line.

10. Every continuously insulated aërial line belonging to the owner shall be attached to supports at intervals not exceeding 100 feet.

Construction and erection of supports.

11. (*1*) Every support of an aërial line shall be of a durable material firmly erected and, if necessary, properly stayed against forces due to wind pressure, change of direction of the line or unequal lengths of span.

(*2*) Every post, if of metal, shall be efficiently connected with earth.

Height from ground and inaccessibility.

12. (*1*) No part of any aërial line shall be at a less height from the ground than 15 feet:

Provided that the Local Government may, by order in writing, permit any modification of this sub-rule which it considers necessary.

(*2*) All aërial lines shall be so erected as to be inaccessible except by the use of a ladder or other special appliance.

Crossing metal roof.

13. Where a metallic roof is crossed by an aërial line, the roof shall be efficiently connected with earth.

Electric Supply-lines other than Aërial Lines.

Crossing pipes, etc.

14. Where an electric supply-line crosses, or is in proximity to, any metallic substance precautions shall be taken by the owner against the possibility of the metallic substance becoming charged.

High pressure electric supply-lines laid above ground.

15. Every portion of a high pressure electric supply-line placed above the surface of the ground (not being an aërial line) shall be completely enclosed, either in a tube of highly insulating material embedded in brickwork, masonry, or cement concrete, or in a strong metal casing efficiently connected with earth.

16. Where a high pressure electric supply-line is laid beneath the surface of the ground efficient means shall be taken to render it impossible that the surface of the ground or any neighbouring electric supply-line or conductor shall become charged by leakage there from.

High pressure electric supply-lines laid under ground.

Circuits within Buildings.

17. The owner shall maintain all electric conductors, fittings and apparatus belonging to him or under his control, which may be in use upon his premises, in a safe condition and in all respects fit for the use of energy and shall take all due precautions against fire.

Responsibility of owners for their conductors, etc.

18. A suitable cut-out shall be inserted in each main or branch circuit upon the owner's premises at the point of origin of the same.

Fuses or disconnectors to be provided on all circuits.

19. The covers and frames and other metallic parts (other than parts of the electrical circuit) of all high pressure apparatus of every description shall be either efficiently connected with earth or, if insulated, shall be so placed and arranged that it is impossible for any person to obtain a shock to earth from them.

High pressure apparatus.

20. An isolation switch shall be provided for every arc lamp on any high pressure electric supply-line, and the switch shall be of such pattern and construction as will provide—

Isolation switch.

(*a*) that the lamp can by its means be entirely disconnected from the supply circuit;

(*b*) that the switch itself can be safely worked in the dark without special precautions;

(*c*) that there shall be no danger of any injurious electrical arcing, sparking, or heating being caused by the operation of the switch; and

(*d*) that where the switch is accessible without the use of a ladder or special appliance it shall be in a locked metallic receptacle efficiently connected with earth.

21. Every installation to which these rules apply shall be duly and efficiently supervised and maintained by the owner to comply with the rules.

Maintenance.

Rules to authorize and regulate the levy of fees.

22. The following fees shall be paid to the Local Government for any testing or inspection by any electric inspector, and for the services (other than testing or inspection) of any electric inspector, namely:

Levy of fees.

(*a*) where any works belonging to any owner are tested or inspected, such owner shall pay a fee of one rupee for every kilowatt of his electrical plant capacity, subject to a minimum of Rs. 16 and a maximum of Rs. 200; and

(*b*) where any meter is certified, or any test is carried out or work done other than that laid down in clause (*a*), there shall be levied a fee of such amount, and payable by such person, as the Local Government, or any person authorized by it in this behalf, may determine.

23. Any owner who commits any breach of these rules shall be punishable, for every such breach, with fine which may extend to Rs. 100, and, in the case of a continuing breach, with a further daily fine which may extend to Rs. 50.

No. 220.—The following draft of a Notification, which it is proposed to issue in exercise of the powers conferred by section 33 of the Indian Electricity Act, 1903 (III of 1903), is published for the information of all persons likely to be affected thereby, as required by section 34 (*1*) of the said section, and notice is hereby given that the said draft will be taken into consideration on or after the 15th day of September 1903.

Any objection or suggestion which may be received from any person with respect to the draft before the date specified will be considered by the Governor General in Council.

In exercise of the powers conferred by section 33, sub-section (*2*), clause (*a*), of the Indian Electricity Act, 1903 (III of 1903), the Governor General in Council is pleased to direct the preparation and submission of accounts in the forms specified below:

——— ELECTRIC LICENSE.

THE (NAME OF LOCAL AUTHORITY).

Year ending 31st December 190 .

I.—Statement as to loans authorised for the purposes of the undertaking referred to in the above-mentioned license prior to the 31st December 190 .

AMOUNTS SANCTIONED AND NATURE OF LOAN.	AMOUNT BORROWED.				AMOUNT REPAID.				Amount sanctioned but not borrowed.
	At per cent.	At per cent.	At per cent.	Total.	At per cent.	At per cent.	At per cent.	Total.	

DR. CR.

CAPITAL ACCOUNT.

No. II.

For the year ending 31st December 190 .

	Expenditure up to 31st December 19 .	Expended during the year.	Total expenditure to 31st December 19 .		Receipts up to 31st December 19 .	Received during the year.	Total receipts to 31st December 19 .
	Rs. A. P.	Rs. A. P.	Rs. A. P.		Rs. A. P.	Rs. A. P.	Rs. A. P.
To Expenditure to 31st December 19 .				1. By amount raised by Loans.			
Expenditure since that date.				2. By sale of patents or patent rights.			
1. To lands, including law charges incidental to acquisition.				3. By value of lands belonging to authority appropriated for electrical purposes.			
2. To value of lands appropriated for electrical purposes, as per contra.				4. By value of surplus lands sold.			
3. To buildings ...				5. By other receipts (to be specified).			
4. To machinery ...							
5. To accumulators at generating and distributing stations.							
6. To mains, including cost of laying the mains and services.							
7. To transformers, motors, &c.							
8. To meters and fees for certifying.							
9. To electrical instruments, &c.							
10. To general stores (cable, mains, lamps).							
11. To purchase of patents or patent rights.							
12. To transfer to Sinking Fund of value of lands sold, as per contra.							
13. To amount applied to the reduction of principal of borrowed money from value of lands sold, as per contra.							
14. To other items (to be specified).							
Total Expenditure ...							
To balance of Capital Account.							
Rs. ...							

DR. **REVENUE ACCOUNT.** CR.

No. III. *For the year ending 31st December 190 .*

		Rs. A. P.	Rs. A. P.		Rs. A. P.	Rs. A. P.	Rs. A. P.
A.—To generation of electricity.				1. By balance from last account.			
1. To coals or other fuel, including dues, carriage, unloading, storing, and all expenses of placing the same on the works.				Less bad debts written off.			
2. To oil, waste, water, and engine-room stores.				2. By sale of current for lighting purposes, by meter at per B. T. U.			
3. To wages at generating stations.				3. By sale of current for power purposes, by meter at per B. T. U.			
4. To repairs and maintenance as follows :—	Rs. A. P.			4. By sale under contracts...			
Buildings ...				5. By public lighting ...			
Engines, boilers				6. By rental of meters and other apparatus on consumers' premises.			
Dynamos, exciters, transformers, motors, &c.				7. By sale and repairs of lamps, arc or incandescent.			
Other machinery, instruments, and tools.				By sale and repairs of other apparatus.			
Accumulators and accessories.				8. By royalties, licenses, &c.			
Less received for old material.				9. By rents receivable ...			
5. To other items (to be specified.)				10. By fees for inspection of maps.			
B.—To distribution of electricity.				11. By other items (to be specified.)			
1. To wages and other remuneration to linesmen, fitters, labourers.							
2. To repairs, maintenance, and renewals of mains of all classes, including materials and laying the same.							
Less amounts refunded.							
Carried over ...				Total ...			

REVENUE ACCOUNT—*contd.*

	Rs. A. P.	Rs. A. P.		Rs. A. P.
Brought forward ...				
B.—To distribution of electricity—concluded.				
3. To repairs, maintenance, and renewal of transformers, meters, switches, fuses, and other apparatus, on consumers' premises, together with cost of materials and lamps sold, as per contra.				
4. To repairs, maintenance, and renewals of apparatus at distributing stations.				
C.—To public lamps.				
1. To attending and repairs...				
2. To renewals of lamps ...				
D.—To royalties, &c.				
1. To royalties, &c., payable for use of patents or patent processes.				
E.—To rents, rates, and taxes.				
1. To rents payable ...				
2. To rates and taxes ...				
F.—To management expenses.				
1. To salaries, *viz.*:—				
Engineer's Department...				
Accountant and clerical staff.				
2. To salaries or commissions of Collectors.				
3. To stationery and printing				
4. To general establishment charges.				
G.—To Law and Parliamentary Charges.				
1. To law expenses ...				
H.—To special charges.				
1. To insurances, &c. ...				
2. To expenses for certification of meters.				
Total expenditure ...				
Amount carried to net revenue account.				
Balance carried to next account to provide for bad debts.				
Total ...				

DR. CR.

No. IV. NET REVENUE ACCOUNT.

	Rs. A. P.		Rs. A. P.
1. To interest on mortgage debt accrued due to date.		1. By balance from last account.	
2. To instalments of principal of money borrowed.		2. By balance brought from revenue account (No. III).	
3. To amount transferred to sinking fund where such fund is authorised.		3. By interest on money at deposit.	
4. To expenses of executing the license not included in III and not chargeable to capital.			
5. To payments to reserve fund where such is authorised by the license.			
6. To sum applied to local rate.			
To balance carried forward.			
Rs.		Rs.	

DR. CR.

No. V. SINKING FUND ACCOUNT.

	Stock.	Rs. A. P.		Stock.	Rs. A. P.
1. To amount paid for purchase of (nature of investment to be specified).			1. By balance brought from last account.		
2. To stock sold during period of account.			2. By amount brought from net revenue account.		
3. To amount of principal of borrowed money repaid.			3. By interest on investment.		
To amount of balance to next account.			4. By value of lands transferred from Account II.		
			5. By amount realised by sale of stock (nature of stock to be specified).		
			6. By stock purchased.		
Rs.			Rs.		

DR. CR.

No. VI. RESERVE FUND ACCOUNT.

	Stock.	Rs. A. P.		Stock.	Rs. A. P.
1. To amount paid for purchase of (nature of investment to be specified).			1. By balance brought from last account.		
2. To stock sold ...			2. By amount transferred from net revenue account.		
3. To sum transferred to revenue account.			3. By stock purchased.		
To amount of balance to next account.			4. By amount realised by sale of stock (nature of stock to be specified).		
Rs.			Rs.		

DR. CR.

No. VII. GENERAL BALANCE SHEET.

Liabilities.	Rs. A. P.	*Assets.*	Rs. A. P.
1. To capital Account : ... Amount received as per Account No. II ...		1. By capital account : ... Amount expended for works as per Account No. II ...	
2. To sundry creditors ...		Rs. A. P.	
3. To net revenue account : Balance at credit thereof.		2. By stores on hand at 31st December ...	
4. To sinking fund account ...		Coal ...	
5. To reserve fund account ...		Oils, waste, &c....	
6. To other items (to be specified)		General ...	
		3. By sundry debtors for current supplied to 31st December	
		4. By other debtors ...	
		5. By securities as held (cost price)	
		6. By other items (to be specified)	
		7. By cash with treasurer ...	
		8. By cash in hand ...	
Total ...		Total ...	

No. IX.

STATEMENT OF ELECTRICITY GENERATED, SOLD, &c.

Quantity generated in B. T. units.	QUANTITY SOLD.					Quantity used on works.	Quantity not accounted for.	Total quantity accounted for.	Number of public lamps.	Total maximum supply demanded.
	Public lamps.	By contract.	To consumers by meter for lighting purposes.	To consumers by meter for power purposes.	Total sold.					

No. 221.—The following draft of a notification, which it is proposed to issue in exercise of the powers conferred by section 33 of the Indian Electricity Act, 1903 (III of 1903), is published for the information of all persons likely to be affected thereby, as required by section 34 (1) of the said section, and notice is hereby given that the said draft will be taken into consideration on or after the 15th day of September 1903.

Any objection or suggestion which may be received from any person with respect to the draft before the date specified will be considered by the Governor General in Council.

In exercise of the powers conferred by section 33, sub-section (2), clause (a), of the Indian Electricity Act, 1903 (III of 1903), the Governor General in Council is pleased to direct the preparation and submission of accounts in the forms specified below:

____________ELECTRIC LICENSE.

THE COMPANY.

Year ending 31st December 190 .

Statement of share capital appropriated for the purposes of the undertaking authorised by the abovementioned license on the 31st December 190 .

No. I.

Description of Capital.	Authorised by	Number of shares issued.	Nominal amount of share.	Called up per share.	Total paid up.	Issued not paid up.	Remaining unissued.	Total amount authorised.

Statement of loan capital appropriated for the purposes of the undertaking authorised by the above mentioned license, on the 31st December 190 .

No. II.

Description of loan.	AMOUNTS BORROWED.				Remaining borrowing powers.	Total amount of borrowing powers.	
	At per cent.	At per cent.	At per cent.	Total.			

Total Share Capital Paid-up, see No. I............Rs.

,, Loan ,, Borrowed see No. II............Rs.

Total Capital received...Rs.

DR. CAPITAL ACCOUNT. CR.

No. III.

For the year ending 31st December 190 .

	Expenditure up to 31st December 190 .	Expended during the year.	Total expenditure to 31st December 190 .		Receipts up to 31st December 190 .	Received during year.	Total receipts to 31st December 190 .
	Rs. A. P.	Rs. A. P.	Rs. A. P.		Rs. A. P.	Rs. A. P.	Rs. A. P.
To expenditure to 31st December 190 .							
Expenditure since that date—				By ordinary shares of Rs.			
				Ditto.			
1. To lands including law charges incidental to acquisition.				By preference shares of Rs.			
2. To buildings ...				By debenture stock ...			
3. To machinery ...				By mortgages and bonds.			
4. To accumulators at generating and distributing stations.				By amounts received in anticipation of calls.			
5. To mains, including cost of laying the mains.				By sale of patents or patent rights, &c.			
6. To transformers, motors, &c.				By other receipts (to be specified).			
7. To meters, and fees for certifying under the Act.							
8. To electrical instruments, &c.							
9. To general stores (cable, mains, lamps).							
10. To purchase of patents or patent rights.							
11. To cost of license ...							
12. To special items ...							
Total expenditure ...							
To balance of Capital Account.							
		Rs.		Rs.			

DR. REVENUE ACCOUNT. CR.

No. IV. *For the year ending 31st December 190 .*

	Rs. A. P.	Rs. A. P.		Rs. A. P.	Rs. A. P.
A.—To generation of Electricity.			1. By sale of current for lighting purposes by meter at per B. T. U.		
1. To coals or other fuel, including dues, carriage, unloading, storing, and all expenses of placing the same on the works.			2. By sale of current for power purposes by meter at per B. T. U.		
2. To oil, waste, water, and engine-room stores.			3. By sale under contracts ..		
3. To proportion of salaries of engineers, superintendents, and officers, as certified by the Managing Director, Chairman, or Engineer.			4. By public lighting ...		
4. To wages and gratuities at generating stations.			5. By rental of meter and other apparatus on consumers' premises.		
5. To repairs and maintenance as follows :— Rs. A. P.			6. By sale and repair of lamps, arc or incandescent.		
Buildings ...			By sale and repair of other apparatus.		
Engines, boilers			7. By royalties, licenses, &c.		
Dynamos, exciters, transformers, motors, &c.			8. By rents receivable ...		
Other machinery, instruments and tools.			9. By transfer fees ...		
Accumulators and accessories.			10. By other items (to be specified).		
To special items.					
B.—To distribution of Electricity.					
1. To proportion of salaries of superintendents and officers, as certified by Managing Director, Managing Agents, Chairman, or Engineer.					
2. To wages and gratuities to linesmen, fitters, labourers.					
3. To repairs, maintenance, and renewals of mains of all classes, including materials and laying the same.					
Less amounts refunded					
4. To repairs, maintenance, and renewal of transformers, meters, switches, fuses, and other apparatus on consumers' premises.					
5. To repairs, maintenance, and renewals of apparatus at distributing stations.					

DR. CR.

No. IV—*continued.* REVENUE ACCOUNT—*contd.*

	Rs. A. P.	Rs. A. P.		Rs. A. P.	Rs. A. P.
C.—To Public Lamps.					
1. To attending and repairs ...					
2. To renewals of lamps ...					
D.—To Royalties, &c.					
To Royalties, &c., payable for use of patents or patent processes.					
E.—To Rents, Rates, and Taxes.					
1. To rents payable ...					
2. To rates and taxes ...					
F.—To Management Expenses.					
1. To Directors' remuneration.					
2. To salaries of managing engineers secretary, accountants, clerks, messengers, as certified by Managing Director, Chairman, or Engineer.					
3. To salaries or commissions of Collectors.					
4. To stationery and printing.					
5. To general establishment charges.					
6. To Auditors of Company					
7. To Auditor appointed under the provisions of the Act.					
G.—To Law and Parliamentary Charges.					
To law expenses ...					
H.—To Depreciation.					
1. To depreciation in respect of leasehold works.					
2. Ditto buildings ...					
3. Ditto plants, machinery, &c.					
I.—To Special charges.					
1. To insurances, superannuation, &c.					
2. To expenses for certification of meters.					
Total expenditure ...					
Balance carried to net revenue					
	Rs.				

DR. CR.

No. V. NEW REVENUE ACCOUNT.

	Rs. A. P.		Rs. A. P.	Rs. A. P.	Rs. A. P.
1. To interest on debentures accrued due to date.		1. By balance from last account.			
2. To interest on mortgages and bonds accrued due to date.		Less dividend paid.			
3. To interest on temporary loans accrued due to date.		By amount carried to reserve fund.			
4. To dividend on preference stocks.		2. By balance brought from revenue account (No. IV).			
5. To balance applicable to dividend on ordinary stock or shares.		3. By interest on money at deposit.			
Rs.		Rs.			

DR. CR.

No. VI. RESERVE FUND ACCOUNT.

	Rs. A. P.		Rs. A. P.
1. Amount paid out for ...		1. By balance brought from last account.	
2. Amount of balance to next account.		2. By amount brought from net revenue account.	
		3. By interest on amount invested.	
		(Description of investments to be specified.)	
Rs.		Rs.	

DR. CR.

No. VII. DEPRECIATION FUND ACCOUNT.

	Rs. A. P.		Rs. A. P.
1. To balance		1. By balance from last account.	
		2. By interest on investments	
		3. By amount brought from revenue account (see No. IV H.)	
		(Description of investments to be specified.)	
Rs.		Rs.	

DR. CR.

No. VIII. GENERAL BALANCE SHEET.

Liabilities.	Rs. A. P.	*Assets.*	Rs. A. P.
1. To capital account: amount received as per Account No. III		1. By capital accounts : amount expended for works as per Account No. III ...	
2. To sundry tradesmen and others, due on construction of plant and machinery, fuel, stores, etc., to 31st December 190 ...		2. By stores on hand on 31st December 190 :— Rs. A. P. Coal ... Oils, waste, etc.... General ...	
3. To sundry creditors on open accounts		3. By sundry debtors for amounts paid on account of contracts in course of completion ...	
4. To net revenue account: balance at credit thereof...		4. By preliminary expenses ...	
5. To reserve fund account ...		5. By sundry debtors for current supplied to 31st December 190 .	
Do. do. ...		6. By other debtors ...	
6. To depreciation fund account		7. By cash at bankers :— Messrs. Messrs. Messrs. (amount on deposit)	
		8. By cash in hand ...	
Total ...	...	Total ...	...

No. IX.

STATEMENT OF ELECTRICITY GENERATED, SOLD, &c.

Quantity generated in B. T. units.	Quantity sold.					Quantity used on works.	Total quantity accounted for.	Quantity not accounted for.	Number of public lamps.	Total maximum supply demanded.
	Public lamps.	By contract.	To consumers by meter for lighting purposes.	To consumers by meter for power purposes.	Total sold.					

No. 222.—The following draft of a notification, which it is proposed to issue in exercise of the powers conferred by section 33 of the Indian Electricity Act, 1903 (III of 1903), is published for the information of all persons likely to be affected thereby, as required by section 34 (1) of the said section, and notice is hereby given that the said draft will be taken into consideration on or after the 15th day of September 1903.

Any objection or suggestion which may be received from any person with respect to the draft before the date specified will be considered by the Governor General in Council.

In exercise of the powers conferred by section 33, sub-section (2), clause (*a*), of the Indian Electricity Act, 1903 (III of 1903), the Governor General in Council is pleased to direct the preparation and submission of accounts in the forms specified below:

INDIAN ELECTRICITY ACT, 1903.

Model form of accounts for Electric Tramways.

A. DESCRIPTION.

Name of undertaking
General History and Description
Date of special Acts or of agreements, licenses, etc.
Owners
Lessees
Worked by
Terms
Description of Track: Gauge
Rails: Weight per yard
" Section
" Average length in feet
Fastenings: Ordinary
Ditto Joint
Sleepers
Foundation

System of working.	Length in Miles of					Total length of single line miles $a + 2b + 2c + d = e$.
	Single line.	Interlaced.	Double.	Sidings other than passing places.	Road or route.	
	a	*b*	*c*	*d*		*e*
Third Rail						
Surface contact						
Conduit						
Overhead						
Accumulators						
Total ...						

Paving in miles.	Unmade ground.	Maced.	Cobbles.	Setts.	Soft wood.	Hard wood.	Asphalte.	Bricks.
Tracks and 1′ 6″ outside ...								
Marginal paving ...								
Remainder of road ...								

Gradients: Total length, route miles
Average inclination, 1 in
Steepest, length, route miles
" inclination, 1 in

Curves: Total length, miles—single line
Average radius, feet
Sharpest length, feet—single line
" radius, feet

Station Buildings: Description
Offices ditto
Car sheds No. ditto
Dwellings No. ditto
Stables ditto

Engines.	No.	Description.
High pressure		
Low "		
Condensing		
Non-condensing		
Partly non-condensing		
Total ...		

Motors
Dynamos
Boilers
Other machinery

	Number.	Weight.	Seating capacity.	Description.
Passenger motor-cars				
Trailers				
Freight cars				
Total ...				
Average ...				

Other cars and vehicles
Brakes, description of
Maximum load at works

Load factor $\frac{\text{units} \times 100}{\text{maximum load} \times \text{hours}}$

Plant capacity at end of year

	From commencement.	Year ended—	Average.
	A	B	C
Employees: Number			
Ditto Average weekly pay			

Renewals (whole).	Length.			Cost.		
	A	B	C	A	B	C
Rails						
Substructure						
Wire or cable						
Engines						
Cars						
Machinery						

Average of Rails years
Ditto Substructure do.
Ditto Wire or cable do.
Ditto Engines do.
Ditto Cars do.
Ditto Machinery do.

	Total.			Per mile single line.		
	A	B	C	A	B	C
B. of T. units consumed						
Car miles run						
Passengers carried (tickets issued) ...						
Ditto proportion to top. served ...						
Average No. cars run per diem ...						
Percentage of total number ...						
Stopping stations, number (including termini).						
Number of stoppages at stations ...						
Ditto ditto intermediate ...						
Average through speed of cars ...						
Mileage of car per diem						
Ditto horses ditto						
B. of T. units consumed per mile ...						
Average price of fuel per ton ...						

CAPITAL.

	Total.			Per mile single line (e).		
	A	B	C	A	B	C
Capital, authorised						
Do. called up						
Do. issued						
Do. expended						
Borrowing powers						
Shares, ordinary						
Do. preference						
Do. debentures						
Do. mortgages						
Dividends paid						
Loans, original						
Do. additional						
Payments, loans						
Ditto sinking fund						
Value of building						
Do. machinery						
Do. rolling stock						
Do. horses						
Do. permanent-way						
Total Capital ...						

C

EARNINGS.

Earnings.	Per cent. of C.			Total.			Per mile single line.			Per car mile.		
	A	B	C	A	B	C	A	B	C	A	B	C
Passengers, 2 pice No. ...												
Do. 4 ,, ...												
Do. [illegible] ,, ...												
Do. 8 ,, ...												
Do. etc., No. ...												
Total ...												
Average paid ...												
Do. season No. ...												
Average Total No. ...												
OTHER SOURCES												
Advertising												
Rents												
Parcels												
Mails												
Goods												
Manure, etc. ...												
Sale of old materials ...												
Miscellaneous ...												
Total ...												
C. Gross Earnings ...												

EXPENDITURE.

Engineering.	Total.			Per mile single line.			Per car mile.		
	A	B	C	A	B	C	A	B	C
General Superintendence and offices ...									
Maintenance of permanent-way (including 1 foot 6 inch outside of track), wages.									
Maintenance of permanent-way materials issued									
Maintenance of wire or cable wages ...									
Ditto materials issued									
Fuel, oil, tallow and other stores									
Maintenance of machinery wages ...									
Ditto materials issued									
Buildings, etc., wages									
Ditto materials issued									
Renewals (partial) Permanent-way wages ...									
Ditto materials issued ...									
Wire or cable, wages									
Ditto materials issued									
Renewals (partial) Machinery wages ...									
Ditto materials issued ...									
Total General Superintendence									
Total Maintenance									
Total Renewals (partial)									
Total Engineering									

Working or operating wages and materials issued.	Per B. O. T. unit.			Total.			Per mile single line.			Per car mile.		
	A	B	C	A	B	C	A	B	C	A	B	C
General Superintendence												
Coal, etc.												
Oil, waste, and sundries												
Repairs of plan (station and sub-station) ...												
Repairs of switchboards, transformer, etc. ...												
Miscellaneous												
Total working or operating												

EXPENDITURE—*contd.*

Traffic (wages and materials issued).	Per B. O. T. unit.			Total.			Per mile single line.			Per car mile.		
General Superintendence and offices ...												
Train staff												
Lighting												
Clothing												
Printing												
Stationery												
Tickets												
Punches												
Collecting and delivery												
Lubricating												
Cleaning												
Miscellaneous												
Total Traffic ...												

General (wages and materials issued).	Total.			Per mile single line			Per car mile.		
	A	B	C	A	B	C	A	B	C
Management (salaries and offices)									
Audit (ditto)									
Stores (ditto)									
Medical (salaries and offices, including vets)									
Directors' fees									
Rates and taxes									
Rents (including foreign lines)									
Wayleaves									
Law									
Compensation									
Insurance									
Payments to other lines									
Advertising									
Miscellaneous									
Total General ...									

EXPENDITURE—*contd.*

Abstract of working expenditure.	Per cent. of total earnings.			Total.			Per mile single line.			Per car mile.		
	A	B	C	A	B	C	A	B	C	A	B	C
Engineering												
Working or Operating												
Traffic												
General												
Total working expenditure												

Other expenditure.	Per cent. of total earnings.			Total.			Per mile single line.			Per car mile.		
	A	B	C	A	B	C	A	B	C	A	B	C
Sinking fund												
Reserve fund												
Depreciation fund												
Interest to Corporation												
Ditto bank												
Ditto ordinary												
Ditto preference												
Ditto debentures												
Ditto mortgage												
Maintenance of roads outside 1 foot 6 inches from track												
Miscellaneous												
Total other expenditure ...												
D Total All Expenditure ...												

EXPENDITURE—*concld.*

Index No.	Result for year ended.		Total.	Per mile single line.	Per mile.
	Balance brought forward	Cash			
		Materials ...			
C	Total Gross earnings	Cash			
		Materials ...			
	Total all expenditure	Cash			
		Materials ...			
D	Balance forward	Cash			
		Materials ...			

GENERAL RESULTS.

	Total.			Per mile single line.			Per car line.		
	A	B	C	A	B	C	A	B	C
Capital									
Net earnings (C—D)									
" per cent. on Capital									

No. 223.—The following draft of a notification, which it is proposed to issue in exercise of the powers conferred by section 33 of the Indian Electricity Act, 1903 (III of 1903), is published for the information of all persons likely to be affected thereby, as required by section 34 (*1*) of the said section, and notice is hereby given that the said draft will be taken into consideration on or after the 15th day of September 1903.

Any objection or suggestion which may be received from any person with respect to the draft before the date specified will be considered by the Governor General in Council.

In exercise of the powers conferred by section 33 of the Indian Electricity Act, 1903 (III of 1903), and by clause VIII, sub-clause (*4*), of the schedule to the said Act, the Governor General in Council is pleased to prescribe the following form of requisition requiring licensees to lay down distributory mains for the purpose of general supply throughout a street or part of a street :

Form of Requisition.

Prescribed under section 33 and clause VIII (*4*) of the schedule to the Indian Electricity Act, 1903, for laying down distributing mains.

To

____

____ (name of licensee).

In the case of six or more owners or occupiers.

We the undersigned, being owners or occupiers of premises situated in ________________________ street, situated within the "area of supply" defined in the __________ license 19 , do

In the case of the Local Government or a local authority.

The Government of ____________ (The local authority of __________) being charged with the public lighting of ________________ street, situated within the area of supply defined in the _________________ license 19 ,

hereby require(s) you to provide and lay down, within six months of the date of this requisition, distributing mains for the purpose of general supply throughout the said street* in accordance with the terms and conditions laid down in clause VIII of the schedule to the Indian Electricity Act, 1903.

* or such part of the street as may be specified.

____

____

DATED AT________________ ________________________

The *day of* *19* . ________________________

____

____

No. 224.—The following draft of a notification, which it is proposed to issue in exercise of the powers conferred by section 33 of the Indian Electricity Act, 1903 (III of 1903), is published for the information of all persons likely to be affected thereby, as required by section 34 (*1*) of the said section, and notice is hereby given that the said draft will be taken into consideration on or after the 15th day of September 1903.

Any objection or suggestion which may be received from any person with respect to the draft before the date specified will be considered by the Governor General in Council.

In exercise of the powers conferred by section 33 of the Indian Electricity Act, 1903 (III of 1903), and by clause IX, sub-clause (*4*), of the schedule to the said Act, the Governor General in Council is pleased to prescribe the following form of requisition, requiring licensees to supply energy for premises within one hundred yards from any distributing main :

Form of requisition.

Prescribed under section 33 and clause IX (*4*) of the schedule to the Indian Electricity Act, 1903, for supplying energy for premises within one hundred yards from any distributing main.

To

____

____ (name of licensee).

You are hereby requested to provide, within _______ weeks of the date of this requisition, a supply of electrical energy at the premises ________________________

being within one hundred yards of your distributing mains and within the "area of supply" laid down in the ________ license 19 , for the following:

________ 30 watt lamps (8 C. P.)

________ 60 watt lamps (16 C. P.)

________ — watt lamps.

________ fans.

________ B. H. P. motors.

The wiring work will be carried out by ________

DATED AT________
The day of 19 . ________ *Signature.*

NOTE.—Under clause IX(*1*) 1st proviso of the schedule to the Indian Electricity Act, 1903, "the cost of so much of any electric supply-line as may be laid for the purposes of the supply upon the property in respect of which the requisition is made, and of so much of any electric supply-line as it may be necessary for the said purposes to lay for a greater distance than one hundred feet from the licensee's distributing main, although not on that property, shall, if the licensee so requires, be paid by the owner or occupier making the requisition."

In accordance with the above the licensee makes the following charges:

The ordinary rate for making connections to Consumer's Premises is Rs. ______, to which will be added any wiring necessary from the point of service at the rate of ______ rupee per yard, and (for underground services) a rate of ______ annas per inch for cutting away and making good the wall of the house.

The licensees lay all services in the Street free of charge to a distance of ______ feet from their mains.

SIDNEY PRESTON,
Secretary to the Government of India.

FROM THE "GAZETTE OF INDIA," DATED JUNE 27, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Simla, the 25th June 1903.

No. 2457.—In exercise of the powers conferred by section 5 of the Indian Explosives Act, 1884 (IV of 1884), the Governor-General in Council is pleased to direct that the following shall be substituted for sub-rule XVIII of rule 6 of the rules to regulate the transport and importation of explosives published with the Notification of the Government of India in the Home Department, No. 5528, dated the 11th October 1901 :

"XVIII. Wagons containing explosives shall be placed at the end of the train away from the locomotive, and shall be close-coupled to one another as well as to the adjoining wagons, and shall be preceded and followed by three wagons not loaded with explosives or other traffic of an inflammable nature ;

Provided as follows :

(*a*) on the Darjeeling-Himalayan Railway, wagons containing explosives and adjoining wagons need not be close-coupled to one another ; and

(*b*) on the Nilgiri Railway only one wagon need intervene between the locomotive and wagons containing explosives."

JUDICIAL.

The 25th June 1903.

No. 1124.—Captain F. S. Walker, Cantonment Magistrate of Mooltan, has been granted an extension, in India, of leave for three days from the 9th to the 11th October 1902, in continuation of the leave granted in the Home Department Notification No. 1071, dated the 26th July 1901.

No. 1126.—In exercise of the powers conferred by sub-section (2) of section 18 of the Indian Factories Act, 1881 (XV of 1881) (as amended by Act XI of 1891), and in supersession of the rule published in the Home Department Notification No. 428, dated the 25th March 1892, the Governor-General in Council has been pleased to make the following rule :

Every occupier of a factory shall furnish to the Magistrate of the district or if the factory is situate within the limits of a Presidency town, to the special Inspector of Factories or other officer designated in this behalf by the Local Government, the undermentioned returns :

I.—On or before the 15th January of each year, an annual return in the following form :

Name and situation of factory.	Name of owner or occupier.	Name of Manager.	Nature of industry.	Nature and amount of moving power.	AVERAGE DAILY NUMBER OF OPERATIVES EMPLOYED.				Whether the factory is worked by shifts or stoppages and, in the latter case, the hour and extent of daily stoppage	Whether there is a general holiday on Sunday or on varying week days, or whether the factory has been exempted from the rule as to Sunday labour under section 5-B (1), clause (*c*), of the Act.	REMARKS.
					Adults.		*Children.*				
					Male.	Female.	Male.	Female.			

N.B.—The average daily number of children is to be taken from the register of children kept in the factory.

II.—A return, in the following form, regarding measurements and space:

Name and situation of factory.	Name of occupier.	Measurements and cubical contents of each room in the factory.	Area of the floor-space of any room shown in the preceding column occupied by machinery or other fixtures.	REMARKS.

This return shall be submitted for every factory when it is first registered under the Act, and thereafter, whenever any alteration is made in the factory which affects the measurements and cubical contents of any room or the area of the floor-space in any room occupied by machinery or other fixtures.

III.—Before the end of each calendar month, a return giving notice of all the days on which the factory will be closed during the ensuing month. This return must be submitted whether the factory is or is not working during the calendar month preceding the one to which the return relates.

H. H. RISLEY,

Offg. Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

ARCHÆOLOGY AND EPIGRAPHY.

Simla, the 25th June 1903.

No. 2170—34-9.—The Archæological Survey Circles of the Punjab and United Provinces having been amalgamated, Dr. J. Ph. Vogel, who was appointed to be Archæological Surveyor, Punjab Circle, by Notification No. 82—6-2, dated 11th January 1901, is appointed Superintendent of the Archæological Survey of the amalgamated Circle.

Mr. E. B. S. Shepherd, appointed by the Secretary of State for India to the Archæological Survey Department, arrived at Bombay on the 9th May 1903, and assumed charge of his appointment of Archæological Surveyor, United Provinces and Punjab Circle, on the afternoon of the 10th idem.

J. O. MILLER,

Secretary to the Government of India.

STAR OF INDIA.

NOTIFICATION.

Simla, the 26th June 1903.

No. 60-*S.I.*—His Excellency the Grand Master of the Most Exalted Order of the Star of India is pleased to announce that His Majesty the KING, EMPEROR OF INDIA, has been graciously pleased to make the following appointments to the said Order:

To be Companions.]

THOMAS GORDON WALKER, Esquire, Indian Civil Service, Commissioner and Superintendent, Delhi Division, and a Member of the Central Committee, Coronation Darbar, Delhi.

Colonel JAMES WHITE THURBURN, Royal Engineers, Chief Engineer, and Secretary to the Government of the Punjab in the Public Works Department, Buildings and Roads Branch, and a Member of the Central Committee, Coronation Darbar, Delhi.

By Order of the Grand Master,

L. W. DANE,

Secretary to the Most Exalted

Order of the Star of India.

INDIAN EMPIRE.

NOTIFICATION.

Simla, the 26th June 1903.

No. 124-*I.E.*—His Excellency the Grand Master of the Most Eminent Order of the Indian Empire is pleased to announce that His Majesty the KING, EMPEROR OF INDIA, has been graciously pleased to make the following appointments to the said Order:

To be Companions.

* * * * * * * *

CHARLES BROWN, Esquire, Inspector-General of Police to the Government of the Punjab. In charge of the Police arragements, Coronation Darbar, Delhi.

* * * * * * * *

Major MONTAGU WILLIAM DOUGLAS, Indian Army, lately Deputy Commissioner of the Delhi District, and a Member of the Executive Committee, Coronation Darbar, Delhi.

CHARLES JAMES KEENE, Esquire, Deputy Traffic Superintendent, North-Western Railway.

* * * * * * * *

Rai Bahadur GANGA RAM, Executive Engineer, 1st Grade, Public Works Department, Punjab, and Superintendent of Works, Coronation Darbar, Delhi.

By Order of the Grand Master,

L. W. DANE,

Secretary to the Most Eminent

Order of the Indian Empire.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATIONS.

SEPARATE REVENUE.

STAMPS.

Simla, the 22nd June 1903.

No. 3740-*S.R.*—In exercise of the power conferred by section 75 of the Indian Stamp Act, 1899 (II of 1899), the Governor-General in Council is pleased to make the following rule as to the payment of allowances in respect of spoiled or misused stamps or on the renewal of debentures:

"When an application is made for the payment, under Chapter V of the Indian Stamp Act, 1899 (II of 1899), of an allowance in respect of a spoiled or misused stamp, or on the renewal of a debenture, and an order is passed by the Collector sanctioning the allowance or calling for further evidence in support of the application, then if the amount of the allowance or the stamp given in lieu thereof is not taken, or if the further evidence required is not furnished, as the case may be, by the applicant within one year of the date of such order as aforesaid, the application shall be struck off and the spoiled or misused stamp (if any) sent to the Superintendent of Stamps for destruction."

STATISTICS AND COMMERCE.

CUSTOMS.

The 26th June 1903.

No. 3838-*S.R.*—In exercise of the power conferred by section 23 of the Sea Customs Act, 1878 (VIII of 1878), the Governor-General in Council is pleased to exempt the articles specified in the list hereto annexed from so much of the duty to which they are liable on import under head 6 or head 8, as the case may be, of the second schedule to the Indian Tariff Act, 1894 (VIII of 1894), as amended by the Indian Tariff Act, 1894, Amendment Act, 1896 (III of 1896), as is in excess of a duty of ten per cent. *ad valorem.*

List above referred to.

Verniers or sight elevators.

Ventometers or wind gauges.

Reflectors.

Barrel coolers.

Sight covers.

Sliding bars for sights.

Cleaning rods.

Brushes, jags, mops.

Recoil pads or heel pads.

Aim reflectors.

Barrel cleaners or pulls-through.

Turn screws.

Sights for guns or rifles.

E. N. BAKER,

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 26th June 1903.

LONDON GAZETTE.

No. 639.—The following extract is published for general information :

"London Gazette," dated the 29th May 1903, pages 3441, 3442 *and* 3443.

INDIA OFFICE ;

29th May 1903.

The King has approved of the following promotions among officers of the Indian Army * * * made by the Government of India :

Majors to be Lieutenant-Colonels.

* * * * * * * *

Ernest Inglis. Dated 12th February 1903.

* * * * * * * *

Lieutenants to be Captains.

Dated 31st January 1903.

* * * * * * * *

Bartholomew Denis Fitzpatrick.

* * * * * * * *

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

Punjab Light Horse.

No. 652.—Second-Lieutenant Edwin Godfrey Rivett to be Captain, *vice* Swales, transferred to the supernumerary list.

Frank James Rivett, Gentleman, to be Second-Lieutenant, *vice* E. G. Rivett, promoted.

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATIONS.

Simla, the 22nd June 1903.

No. 241.—The date on which Mr. H. C. Granville was appointed to officiate as a Superintending Engineer, Punjab, should be 2nd June 1903, and not as stated in Public Works Department Notification No. 225, dated the 11th June 1903.

The 25th June 1903.

No. 249.—Mr. W. A. Bagley, Executive Engineer, 1st Grade, Punjab, is appointed to officiate as a Superintending Engineer during the absence on deputation of Mr. W. Macdonald, Superintending Engineer, 3rd Class, temporary rank, with effect from the 18th June 1903.

SIDNEY PRESTON,

Secretary to the Government of India.

Punjab Government Press, Lahore—2-7-03—625.

Government Gazette

PUNJAB AND IT'S DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JULY 9, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED JULY 4, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Simla, the 2nd July 1903.

No. 2528.—The Governor-General in Council, with the previous sanction of His Majesty's Secretary of State for India, is pleased to direct that in the Notification of the Government of India in the Home Department, No. 1324, dated the 2nd May 1902, for the words "Order of Merit" the words "Indian Order of Merit," and for the rules published therewith the following rules shall be substituted :

Rules for admission to the Civil Division of the Indian Order of Merit.

1. The "Indian Order of Merit" (Civil Division) consists of three classes, and is conferred on Natives of India, whether servants of Government or not, as a reward for personal bravery shown in aid or support of the public authority or safety. The insignia are, for the first class, gold ; for the second, silver with a gold wreath ; and for the third, silver only ; to be worn on the left breast, pendant from a dark-red ribbon with blue edges.

2. Admission to the third class is obtained by any conspicuous act of individual gallantry ; admission to the second class can be obtained only by members of the third class, and for a similar act of gallantry ; and, in like manner, the Order of the first class is conferred only on members of the second class. In recommending persons for admission to the Order, the act of gallantry must be particularly specified, and the statements of eye-witnesses to the deed must be attached. It is of the highest importance, in view to maintaining the value and prestige of the Order, that the greatest discretion shall be used in submitting recommendations ; as it is very desirable that the distinction should only be granted for conduct which can clearly be defined as an act of conspicuous gallantry.

3. Admission to each class of the Order rests with the Government of India alone ; and, when the act of gallantry has taken place in India, recommendations for the reward will be forwarded for submission to the Government of India, in the case of civilians through the District Officers to the Local Government, and in the case of native officers and soldiers through the usual military channels.

4. A record in each case of the particular act of gallantry for which the Order has been conferred is kept in the office of the Secretary to the Government of India in the Home Department; and a certificate signed by him, declaring the grant of the Order, will be given to each individual on his admission to, or advancement in, it.

5. District Officers are required to report immediately to the Local Government, for communication to the Government of India in the Home Department, any casualty by death amongst individuals admitted to the Order which may occur previous to the receipt of the decoration.

6 The following are the rules for the disposal of the insignia of the Civil Division of the "Indian Order of Merit" on the decease or promotion of members:

> In cases of advancement to a superior class of the Civil Division of the "Indian Order of Merit," the inferior badge is to be forwarded, through the prescribed channel, to the Secretary to the Government of India in the Home Department, Calcutta. The insignia of the Order are, however, allowed to remain in the possession of the family of a deceased member.

7. Whenever a servant of the Government, being a member of the Order, is dismissed the service, and whenever any member of the Order is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member of the Order, a full report of the circumstances shall be transmitted to the Government of India in the Home Department, together with an expression of the Local Government's opinion; and it shall, thereupon, be open to the Government of India to direct the dismissal of any such member from the Order and to require the surrender of his decoration.

8. As a rule the conferment of the Indian Order of Merit in the Civil Division will not be accompanied by any grant of money; but the Government of Indila reserve the right of making such a grant, in addition to conferring the Order, in special cases.

The 3rd July 1903.

No. 2562.—In exercise of the powers conferred by section 5 of the Indian Explosives Act, 1884 (IV of 1884), the Governor-General in Council is pleased to direct that for the words "nothing in these rules shall apply to the packing or transport" in the third paragraph of the Notification of the Government of India in the Home Department, No. 5528, dated the 11th October 1901, as amended by the like Notification No. 2759, dated the 11th September 1902, the words "nothing in these rules shall apply to the packing, transport or importation" shall be substituted.

H. H. RISLEY,

Offg. Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

GEOLOGY AND MINERALS.

Simla, the 3rd July 1903.

No. 2286—68-6.—The following draft of Rules which it is proposed to issue in exercise of the powers conferred by Section 20 of the Indian Mines Act, 1901 (VIII of 1901), is published, as required by the said section, for the information of persons likely to be affected thereby.

2. The draft will be taken into consideration by the Governor-General in Council on or after the 4th day of October 1903; and any objection or suggestion, which may be received from any person with respect to the draft before that date, will be considered by the Governor-General in Council.

DRAFT NOTIFICATION.

In exercise of the powers conferred by Section 20 of the Indian Mines Act, 1901 (VIII of 1901), the Governor-General in Council is pleased to make the following rules or application to all coal mines in British India:

I.—SINGLE SHAFTS AND OUTLETS.

Rule 1.—(*a*) The owner, agent, or manager of a mine shall not employ any person in the mine, or permit any person to be in the mine for the purpose of employment therein, unless there are at least two shafts or outlets with which every seam for the time being at work shall have a communication, so that such shafts or outlets shall afford separate means of ingress and egress available to the persons employed in every such seam.

(*b*) Proper arrangements shall be made for persons to descend to and ascend from the mine at each of such shafts or outlets. If apparatus is necessary, it shall be kept on the works belonging to the mine, and shall be constantly available for use.

(*c*) Such shafts or outlets shall not at any point be nearer to one another than 45 feet, and each shall be connected with the other by means of a communication not less than 4 feet high and 4 feet wide.

(*d*) The foregoing provisions of this rule with respect to shafts and outlets shall not apply—

(i) while a shaft is being sunk or an outlet being made ;

(ii) to any working for the purpose of making a communication between two or more shafts or outlets ;

(iii) to any working for the sole purpose of searching for or proving mineral ;

so long as not more than 40 persons are employed below ground at any one time in the whole of the different seams in connection with a single shaft or outlet.

(*e*) In cases where there are special difficulties which make compliance with the foregoing provisions of this rule not reasonably practicable, the mine may be exempted therefrom by the Local Government, subject to such conditions as it may think fit to impose.

(*f*) So much of this rule as requires two shafts or outlets to be separated by a distance of not less than 45 feet shall not apply to any shafts sunk or commenced to be sunk before this rule comes into force.

II.—RAISING AND LOWERING PERSONS.

Rule 2.—In every mine which is usually entered by means of machinery the following provisions shall have effect, namely :

(*a*) A single linked chain shall not be used for lowering or raising persons in any working shaft or plane, except for the short coupling chain attached to a cage, skip, bucket or tub.

(*b*) There shall be attached to every machine worked by steam or mechanical power, and used for lowering or raising persons, an adequate brake or brakes, and a proper indicator (in addition to any mark on the rope) showing, to the person who works the machine, the position of the cage, skip, bucket or tub in the shaft ; and, if the drum is not on the crank shaft, there shall be an adequate brake on the drum shaft :

Provided that in the case of a shaft not over 100 feet deep or of a shaft in course of sinking so much of this rule as requires an indicator shall not apply.

(*c*) Every apparatus on or in which persons ride in every working shaft, shall be provided with a sufficient cover overhead, except in a shaft not exceeding 100 feet in depth where buckets are used for winding, or in a shaft in course of sinking, or where persons are employed at work in a shaft.

(*d*) Every working shaft used for the purpose of drawing mineral, or for lowering or raising persons, shall, if exceeding 100 feet in depth, be provided with proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in use between the surface and the bottom of the shaft, to the surface, and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft.

(*e*) Every working shaft (except a shaft in course of sinking) used for lowering or raising persons shall, if exceeding 75 feet in depth, be provided with guides.

(*f*) There shall be on the drum of every machine used for lowering or raising persons such flanges or horns or other appliances as may be sufficient to prevent the rope from slipping. The rope shall be securely fastened to the drum, and there shall be at least two turns of the rope on the drum when the cage, skip, bucket or tub is at the bottom of the shaft. After any stoppage of winding for more than two hours, the cage, skip, bucket or tub shall, before any person is allowed to ride therein, be run a complete trip up and down the working portion of the shaft at least once, to ensure that everything is in good working order.

(*g*) A competent person or persons appointed by the owner, agent, or manager for the purpose shall, once at least in every 24 hours, examine the state of the external parts of the machinery and of the head-gear, ropes, chains, and other similar appliances of the mine which are in actual use both above ground and below ground, and shall, once at least in every week, examine the state of the shafts by which persons ascend or descend and the state of the guides and the conductors in the shafts, and shall write or cause to be written a true report of the result of such examination; and every such report shall be recorded without delay in a paged book to be kept at the mine for the purpose, and shall be signed and dated by the person who made the examination.

III.—ROADS AND WORKING PLACES.

Rule 3.—The roofs and sides of all travelling roads and working places shall be made and kept secure.

Rule 4.—(*a*) Every part of a mine in or through which any person has to work or pass, shall be inspected at least once during every twenty-four hours by a competent person or persons appointed by the owner, agent, or manager for the purpose of ascertaining the condition thereof so far as the presence of gas, ventilation, roof, sides, and general safety are concerned.

Provided that when a mine has not been worked for more than twenty-four hours, the inspection shall be made within two hours before any workman is allowed to pass a station or stations appointed by the manager at the entrance to the mine or different parts of the mine, as the case may require.

(*b*) Every person who makes such inspections shall write or cause to be written a true report of the result of such inspection either during or at the close of such twenty-four hours, and every such report shall be recorded without delay in a paged book to be kept at the mine for the purpose, and shall be signed and dated by the person who made the inspection.

Rule 5.—If at any time it is found by the person for the time being in charge of a mine or any part thereof that, by reason of inflammable gases prevailing in the mine or part, or of any cause whatever, the mine or part is dangerous, every workman shall be withdrawn from the mine or part, and a competent person appointed for the purpose shall inspect the mine or part, and, if the danger arises from inflammable gas, shall do so with a locked safety-lamp, and in every case shall make a true report of the condition of the mine or part; and no workman shall, except in so far as is necessary for enquiring into the cause of danger, or for the removal thereof, or for exploration, be re-admitted into the mine or part, until the same is stated by the person appointed as aforesaid not to be dangerous. Every such report shall be recorded without delay in a paged book, which shall be kept at the mine for the purpose, and shall be dated and signed by the person who made the inspection.

Rule 6.—Where a place is likely to contain a dangerous accumulation of water, the working approaching that place shall not at any point within 100 feet thereof exceed 8 feet in width or height, and there shall be constantly kept at a sufficient distance, not being less than 10 feet in advance, at least one bore-hole near the centre of the working, and sufficient bore-holes on each side, and, where necessary, above or below.

Rule 7.—Every entrance to any place, which is not in actual use or course of working and extension, shall be properly fenced across the whole width of the entrance so as to prevent persons inadvertently entering the same.

Rule 8.—Every underground plane on which persons travel and which is self-acting or worked by an engine, shall be provided (if exceeding 100 feet in length) with some proper means of communicating distinct and definite signals between the stopping places and the ends of the plane, and shall be provided in every case with sufficient manholes for places of refuge, occurring at intervals of not more than 60 feet, and being not less than 5 feet high, 2 feet 3 inches wide, and 2 feet deep.

IV.—PLANS.

Rule 9.—The owner, agent, or manager of every mine shall keep in the office at the mine an accurate plan of the workings of the mine, on a scale not smaller than 200 feet to the inch, showing the workings up to a date not more than six months previously. It shall also show the shaft openings, and all those important surface marks within the boundaries, such as railways, which lie within 600 feet of any part of the mine workings, also the general direction and rate of dip of the strata, together with a statement of the depth of each shaft and a section of the seam or seams being worked:

Provided that the owner, agent, or manager of a mine worked in the open and not under cover shall be exempt from the necessity of keeping such plans, unless required to do so by the Chief Inspector of Mines.

Rule 10.—The owner, agent, or manager of every mine shall, at any time on the request of the Chief Inspector of Mines or of any Inspector of Mines, produce to him at the office at the mine such plan and section, and also, on the like request, mark on such plan and section the then state of the workings of the mine; and the Chief Inspector or Inspector shall be entitled to examine the plan and the section, and for official purposes to make or have a copy made of any part thereof respectively.

Rule 11.—If the owner, agent, or manager of a mine fails to keep, or wilfully refuses to produce or allow to be examined, the plan and section aforesaid, or wilfully withholds any portion thereof, or wilfully refuses on request to mark thereon the state of the workings of the mine, or conceals any part of these workings, or produces any imperfect or inaccurate plan or section, he shall (unless he shews that he was ignorant of the concealment, imperfection or inaccuracy) be guilty of an offence against these rules.

Rule 12.—When a mine or seam is abandoned or has been discontinued for more than a year, the owner of the mine or seam shall, at the time of its abandonment, or within three months after the end of a year after discontinuance, send to the Chief Inspector of Mines the plan and sections which have been made for the mine or seam in compliance with these rules and showing the nearest surface boundaries in relation to the underground workings, or a true and accurate copy of the same; but no person except an Inspector of Mines shall be entitled, without the consent of the owner of the mine or seam, to see the plan when so sent until after the expiration of twelve years from the time of the abandonment.

V.—EXPLOSIVES.

Rule 13.—No explosive substance shall be used in a mine otherwise than below ground and under the following conditions, namely:

(*a*) It shall not be stored in the mine.

(*b*) It shall not be taken into the mine except in secure cases, or canisters, containing not more than five pounds, each, and a workman shall not have in use at one time in any one place more than one of such cases or canisters.

(*c*) In the process of charging or stemming for blasting, no person shall use or have in his possession any iron or steel pricker, scraper, tamping-rod, or stemmer, and only clay or other non-inflammable substances shall be used for tamping or stemming.

(*d*) When a hole has been charged, the explosive shall not be unrammed, and no hole shall be bored at a distance of less than 12 inches from any hole where a charge has missed fire.

(*e*) No detonator shall be carried or kept in the same case or canister with any other explosive material, or inserted into the priming catridge until immediately before it is used.

(*f*) No explosive shall be forcibly pressed into a hole of insufficient size.

(*g*) In any place which is dry and dusty, or in which the use of a locked safety-lamp is for the time being required by or in pursuance of these rules, no shot shall be fired, except by and under the direction of a competent person appointed by the manager of the mine.

VI—VENTILATION AND LIGHTING.

Rule 14.—An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases and clear away smoke, to such an extent that the working places of the shafts, levels, and workings of the mine, and the travelling roads to and from these working places shall be in a fit state for working and passing therein.

Rule 15.—No lamp or light other than a locked safety-lamp shall be allowed or used—

(*a*) in any place in a mine in which there is or is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous ; or

(*b*) in any working approaching near a place in which there is likely to be an accumulation of inflammable gas ;

and when it is necessary to work the coal in any part of a ventilating district with safety-lamps, it shall not be allowable to work the coal with naked lights in another part of the same ventilating district situated between the place where such lamps are bei used and the return airway.

Explanation.—For the purposes of this rule, the expression "ventilating district" means such part of a seam as has an independent intake commencing from a main intake air course, and an independent return airway terminating at a main return air course.

Rule 16.—Whenever safety-lamps are used, they shall be so constructed that they may be carried with safety against the air current ordinarily prevailing in the mine.

Rule 17.—In any mine or part of a mine in which the use of safety-lamps is for the time being required by or in pursuance of these rules, the following provisions shall have effect, namely :

(*a*) A competent person shall be appointed by the manager to clean, trim, examine, and securely lock all such lamps before they are taken into the workings for use, and such lamps shall not be used until they have been so examined and found to be in safe working order and securely locked.

(*b*) No safety-lamp shall be unlocked except at the appointed lamp station, or for the purpose of firing a shot.

(*c*) No person, unless he has been authorised in writing by the manager either for the purpose of examining safety-lamps or for the purpose of firing shots, shall have in his possession any contrivance for opening the lock of a safety-lamp.

Explanation.—For the purposes of this rule the term manager includes an under manager and any person for the time being carrying on the duties of the manager.

(*d*) No person shall have in his possession any unlocked safety-lamp, naked light, match, smoking apparatus or apparatus of any kind for striking a light, except within a completely closed chamber attached to the fuse of the shot.

Rule 18.—Where the use of safety-lamps is for the time being required by or in pursuance of these rules, the position of the lamp stations for lighting or relighting the lamps shall not be in the return air.

VII.—MISCELLANEOUS.

Rule 19.—Every side entrance to a mine from the surface and the top, and all entrances between the top and the bottom including the sump (if any) of every working ventilating, or pumping shaft, shall be properly fenced : but this shall not be taken to forbid the temporary removal of the fence for the purpose of repairs or other operations, if proper precautions are used. Shafts temporarily or permanently out of use shall be properly fenced.

Rule 20.—Every fly wheel and all exposed and dangerous parts of the machinery used in or about a mine shall be kept securely fenced.

Rule 21.—Where no enactment for the regulation and inspection of steam-boilers and prime-movers is for the time being in force, every steam-boiler, whether separate or one of range, shall have attached to it a proper safety-valve, and also a proper steam-gauge and water-gauge to show respectively the pressure of steam and the height of water in each boiler.

Rule 22.—Ambulances or stretchers with splints and bandages shall be kept ready at hand in a convenient place and in good and serviceable order at every mine.

Rule 23.—Copies of all rules made under the Indian Mines Act, 1901, shall be kept at every mine, and shall be produced at any time on the request of an Inspector of Mines.

Rule 24.—Where the natural strata are not safe, every working or pumping shaft shall be securely cased, lined, or otherwise made secure.

Rule 25.—If in any mine the winding apparatus is not provided with some automatic contrivance to prevent over-winding, then the cage, skip, bucket or tub shall not, when persons are being raised in it, be wound up at a speed exceeding three miles an hour after it has reached a point in the shaft to be fixed by the special rules made for the mine under section 21 of the Indian Mines Act, 1901.

Rule 26.—Where any person required by these rules, or by any special rule made under section 21 of the Indian Mines Act, 1901, to make any report is unable to write, he shall be present when his report is written for him, and shall have it read over to him, and shall attach his thumb-mark to it. The person writing the report shall also sign his name at the end, together with a statement that it has been read over to the person for whom it was written.

J. O. MILLER,
Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

STATISTICS AND COMMERCE.

CUSTOMS.

Simla, the 3rd July 1903.

No. 3911-*S. R.*—In exercise of the power conferred by section 23 of the Sea Customs Act, 1878 (VIII of 1878), the Governor-General in Council is pleased to exempt from customs duty, memorials of a public character intended to be put up in a public place, including the materials used or to be used in their construction, whether worked or not.

E. N. BAKER,
Offg. Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

NOTIFICATION.

RAILWAYS.

Simla, the 1st July 1903.

No. 253.—It is hereby notified for general information that the Right Honourable the Secretary of State for India has sanctioned an estimate amounting to Rs. 53,24,901 for the construction, on the metre gauge, of a line of railway from Rewari to Phulera, as an integral part of the Rajputana-Malwa State Railway.

The line will be known as the Rewari-Phulera Chord (State) Railway and has been placed under the control of the Government of Bombay.

A. BRERETON,
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 3rd July 1903.

No. 254.—Mr. J. T. Farrant, Executive Engineer, 1st Grade, Punjab, is appointed to officiate as a Superintending Engineer, with effect from the 10th June 1903, during the absence on privilege leave of Mr. J. J. Mullaly, Superintending Engineer.

SIDNEY PRESTON,
Secretary to the Government of India.

FROM THE "GAZETTE OF INDIA," EXTRAORDINARY, DATED JULY 7, 1903.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

ACCOUNTS AND FINANCE.

PUBLIC DEBT.

No 3868-A.

Simla, the 7th July 1903.

THREE-AND-A-HALF PER CENT. LOAN.

His Excellency the Right Honourable the Governor General in Council has resolved to borrow two hundred lakhs of rupees for the public service in the following manner:

2. Promissory Notes will be issued for the said amount in the Form annexed to this Notification, being the form of the notes of *the Three-and-a-half Per Cent. Loan of 1900-01*, of which loan the notes to be now issued will form a part. All the conditions which apply to notes of *the Three-and-a-half Per Cent. Loan of 1900-01*, will apply to the notes to be now issued. The interest on the notes of that loan is payable half-yearly on the 30th day of June and the 31st day of December; and the notes are not liable to discharge before the 31st day of December 1920.

Tenders.

3. Tenders for the whole or any part of the said amount of Rs. 2,00,00,000 will be received by the Comptroller General from this date to noon of Wednesday, the 22nd July next. Tenders must be for sums of 100 Rupees or multiples of that sum.

4. Each tender must be addressed, in the form annexed to this Notification, to the Comptroller General, Calcutta, and enclosed in a closed cover, superscribed "*Tender for the Three-and-a-half Per Cent. Loan.*" If the tenderer is not resident in India, he must name an agent resident in India to whom an allotment-certificate may be issued, if any part of the loan is allotted to such tenderer.

NOTE (1).—Tenders made in accordance with these instructions will also be received by the Accountants General at Madras, Bombay, Allahabad, and Lahore, on account of the Comptroller General, Calcutta, on the 21st July and up to the local time corresponding to 12 o'clock in Calcutta on the 22nd July; provided that—

(*a*) they are delivered personally or by clerk or messenger at the Accountant General's Office (where a receipt will be given for them);

(*b*) they are made on printed forms, to be obtained at the same office or at the local Presidency Bank;

(*c*) each tender is for not less than Rs. 10,000;

(*d*) the deposit is either a promissory note or a Treasury Receipt from the local Office of the Presidency Bank, or a cheque on a local Bank in favour of the Accountant General;

(*e*) the amount of the tender is made payable either at the place of tender or in Calcutta;

and the Accountant General will return deposits on non-accepted tenders and will issue allotment-certificates so far as the tenders are payable in Madras, Bombay, Allahabad, or Lahore.

NOTE (2).—Tenders made in accordance with these instructions will also be received at all Head and Sub-Post Offices up to a date to be notified at each Post Office. The date will vary according to the distance of the Post Office from Calcutta and will in no case be later than the forenoon of the 20th July. The following conditions must be complied with:

(*a*) the tenders must be delivered personally or by messenger at the Post Office, whore a receipt will be given for them;

(*b*) they must be made on printed forms, to be obtained at the Post Office;

(*c*) each tender must be for not less than Rs. 100 and not more than Rs. 2,000;

(*d*) the deposit must be a receipt for the amount (which may not exceed Rs. 40 for each tender) from the Post Master of the Post Office at which the tender is made;

(*e*) the amount of the tender must be made payable either at the Head Post Office of tender (whether the tender was made at the Head Post Office or at one of its Sub-Offices or in Calcutta. In the case, however, of a tender made at a Post Office in Calcutta, the amount of the tender must be made payable only at the Bank of Bengal.

The tenders will be transmitted by post by the Post Master to the Comptroller General so as to reach him before 11 A.M. on Wednesday, the 22nd July. The Comptroller General will deal with them as if they had been made direct to him, returning deposits on non-accepted tenders through the Post Master.

5. The rate at which each tender is made must be specified in rupees or rupees and annas; a tender in which no rate is thus specified, but a subscription is offered in

some other terms—as, for example, at the recorded minimum, or at some specified percentage in addition to the recorded minimum, or at the average of the accepted tenders—will be rejected as null and void.

6. The rate at which a tender is made must not contain a fraction of an anna: if a rate containing a fraction of an anna is inserted in any tender, such fraction will be struck out and the tender treated as if the rate did not contain such fraction of an anna.

Deposits.

7. Each tender must be accompanied by a deposit of not less than one-hundredth or, if the tender be for less than Five Lakhs of Rupees, then for not less than one-fiftieth part of the tender. The deposit must be in one of the following forms: (*a*) a receipt for the amount from the Head Office of the Bank of Bengal, or Madras, or Bombay, or one of their Branches, or from an officer in charge of some Public Treasury, or (*b*) a cheque drawn in favour of the Comptroller General on a Bank in Calcutta, Madras, Bombay, Allahabad, or Lahore, or (*c*) Government Promissory Notes[1] standing in the name of, or endorsed to, the tenderer or the person making the deposit. In the case of tenders made at Post Offices under note (2) to clause 4, the deposit must be a receipt for the amount from the Post Master of the Post Office at which the tender is made.

[1] *It is particularly requested that such Promissory Notes may NOT be endorsed to the Comptroller General.*

8. (*a*) Deposits, not being promissory notes, will, in the case of accepted tenders, be credited proportionately in part payment of the allotment-certificates issued in respect of the tender, and will bear interest for the purpose of clause 16 below from the date of the opening of tenders. When a tender is not accepted in full, the deposits, when they are not in the form of promissory notes, will be credited as far as possible proportionately in part payment of the allotment-certificates issued in respect of it. If any allotment-certificate is not fully taken up, the deposit credited in respect of it will be forfeited.

(*b*) Promissory notes deposited in respect of any accepted tender will be held until all the allotment-certificates issued in respect of the tender are paid up and will, if the allotment-certificates are not fully taken up, be appropriated by the Government and cancelled.

Opening of Tenders.

9. The Governor General in Council reserves the right to declare, on or before the 15th July, the minimum rate at which tenders will be accepted. If not so declared, the said minimum rate will be recorded under the signature of the Comptroller General, and, before the tenders are opened, placed upon the table in a sealed envelope, but will not be declared unless some tender is rejected only because it is below the recorded minimum.

10. Tenders will be opened publicly by the Comptroller General at the Treasury Buildings, Calcutta, at noon (Calcutta time), on Wednesday, the 22nd July next, and those received under the terms of note (1) to clause 4 will be similarly opened by the Accountants General at Madras, Bombay, Allahabad, and Lahore, at the local time corresponding to noon Calcutta time, on the same day; but the contents of the tenders will not be disclosed otherwise than as provided in clause 12.

11. Tenders at rates not below the minimum rate will be accepted in the order of the rates tendered, beginning with the highest rate. The amount allotted at the lowest rate at which tenders are accepted will be divided amongst those who have tendered at this rate in proportion, as nearly as may be found convenient, to the amounts of their tenders; provided that no allotment will be issued if the amount distributable on any tender is less than Rs. 100: preference will however be given to small tenders, not exceeding Rs. 2,000, at the lowest accepted rate, such tenders receiving allotments in full as far as possible.

Allotment-Certificates.

12. To each tenderer (or to his agent) whose tender is accepted in whole or in part, such number of allotment-certificates as may be necessary to make up the aggregate amount allotted to him will be issued by the Comptroller General[1] as soon as possible after the 22nd July and an alphabetical list of the names of those to whom such allotment-certificates are issued will be posted for general information at the Head Offices of the Banks of Bengal, Madras, and Bombay, and at the Branch Offices of the Bank of Bengal at Allahabad and Lahore.

[1] **For tenders received by the Accountant General at Madras, Bombay, Allahabad, or Lahore, and payable at those places, the Accountant General will issue the allotment-certificates.**

13. If the allotment made on any tender is less than Rs. 3,000, then the whole of the allotment-certificates [after credit of the deposit under clause 8 (*a*)] will be made payable upon the 3rd September.

Otherwise the whole amount of each allotment will be divided into three instalments as follows :

Instalment I.— As near as convenient to 35 per cent., but not exceeding 35 per cent., payable upon the 4th August :

Instalment II.—As near as convenient to 35 per cent., but not exceeding 35 per cent., payable upon the 3rd September :

Instalment III.—The balance payable upon the 23rd September :

and allotment-certificates will be issued for each instalment separately.

But the whole or any part of any accepted tender may be paid at any time after receipt of the allotment-certificates.

The words "as near as convenient" refer to the necessity for making each instalment an exact multiple of Rs. 100.

14. Any allotment-certificates will, on application to the Comptroller General, be exchanged for an equivalent amount of allotment-certificates of smaller denominations; provided that if any payment (beyond the deposit) is recorded upon the cancelled certificate, it can be taken against, and recorded upon, only one of the certificates issued in exchange.

15. Payment of any allotment certificate may be made to the account of the Government in the Head Office of the Bank of Bengal or Madras or Bombay, or in any Branch of these Banks, or into any Public Treasury or Treasuries in India which may be named in the tender in respect of which it was issued. Receipts for such payments will be given by the Banks of Bengal, Madras and Bombay, or their Branches, or by the officers in charge of the Government Treasuries at which payment is made, by enfacement upon the relative certificate. In the case of accepted tenders which were made at Post Offices other than Post Offices in Calcutta under note *(2)* to clause 4, payment of allotment-certificates may also be made at the Head Post Office of tender, and the Head Post Master will give a receipt for such payment by enfacement upon the relative allotment-certificate.

Issue of Promissory Notes.

16. (*a*) When any allotment-certificate is fully paid up, the holder will, on presenting it duly receipted at the place where it was paid, obtain from the Public Debt Office, Calcutta, promissory notes of such values as he may desire (each note being in even hundreds and not less than Rs. 100) bearing interest from 31st December 1903 and he will also receive interest at $3\frac{1}{2}$ per cent. per annum from the dates on which he may have made payment till the 30th December 1903.

(*b*) Or he may, at his option, by paying interest at the said rate from 30th June 1903 to the dates on which he may have made payment, obtain promissory notes as above, bearing interest from 30th June 1903.

FORM OF PROMISSORY NOTE (see Clause 2).

FORT WILLIAM, THE

Promissory Note *Govern ment Rupees* *at $3\frac{1}{2}$ per cent.*

No. *of* 1900-01.

The Governor General of India in Council does hereby acknowledge to have received from the sum of Government Rupees One Hundred only as a loan to the Secretary of State in Council for India, and does hereby promise, for and on behalf of the said Secretary of State in Council, to repay the said loan, by paying the said sum of Government Rupees One Hundred only to the said his Executors or Administrators, or his or their Order, on demand, at the General Treasury, at Fort William, after the expiration of Three Months' Notice of Payment, to be given by the Governor General of India in Council, in the *Government Gazette*, and to pay the interest accruing on the said sum of Government Rupees One Hundred only from the at the rate of three-and-a-half per cent. per annum, by half-yearly payments, at the General Treasury, at Fort William, to the said , his Executors, or Administrators, or his or their Order, until the expiration of three months after such notice of payment as aforesaid, when the amount of interest due will be payable with the principal, and (such notice being considered as equivalent to a tender of payment at the period appointed for the discharge of this note) all further interest shall cease.

The Governor General in Council hereby further engages that Notice of Payment as aforesaid shall not be given before the Thirtieth day of September 1920, and that this Note shall not be discharged before the Thirty-first day of December 1920.

FORM OF TENDER (SEE CLAUSE 4).

I, *A.B.*, hereby tender for Rupees (X) of *The Three-and-a-half Per Cent Loan* advertised in the Notification published in the *Gazette of India, Extraordinary*, dated the 7th July 1903, and agree to pay for the same, subject to the conditions notified, at the rate of Rupees (Y) Annas (Z) for every hundred rupees allotted to me.

I enclose a *deposit receipt** for Rupees (XX), and engage, if my offer be accepted, to pay to the account of the Government at the *Bank of* † *(or at the* † *Branch of the Bank of* † *; or into the Public Treasury at* † *; or into the Head Post Office at* ‡ *as the case may be)*—

*Or Cheque or Government Promissory Note.

†Here enter the name of Bank, Branch Bank or Treasury.

‡Here enter the name of Head Post Office at which payment may be desired under clause 15 of the Notification.

The first instalment, as near as convenient to 35 per cent., but not exceeding 35 per cent., on or before the 4th August 1903.

The second instalment, as near as convenient to 35 per cent., but not exceeding 35 per cent., on or before the 3rd September 1903.

The balance on or before the 23rd September 1903.

Or, if the amount allotted to me be less than Rs 3,000, then the whole amount on or before the 3rd September 1903.

Any allotment made to me may be communicated to *C. D.* at §

§ Here insert *C. D.'s* address which must be in India. This paragraph should only be inserted if *A. B.* does not reside in India, or, if residing in India, he wishes the allotment communicated to an agent, or desires to pay the instalments elsewhere than at the place where the tender is submitted, and wishes the allotment-certificates to be given to an agent at that place.

NOTE.—*(1) A separate tender must be made at each rate tendered. The rate tendered should be the whole amount per centum, not the premium or discount: thus "One hundred and two" or "One hundred" or "Ninety-nine"; not "Two per cent. premium" or "Par" or "One per cent. discount."*

By order of the Governor General in Council,

E. N. BAKER,

Offg. Secretary to the Government of India.

NOTIFICATION BY THE COMPTROLLER GENERAL.

The Comptroller General requests the attention of tenderers to the following arrangements:

Filling up tenders.

(1) They are requested to use only the printed forms of tender, which will be available at his Office and at the Currency Office on application to the Darwan on duty, at all the Provincial Account Offices, and at the Banks of Bengal, Madras, and Bombay, and will also be supplied to the Principal Treasuries, and to Head and Sub-Post Offices in India.

(2) If the deposit is in the form of Promissory Notes or of Currency Notes, their number should be quoted in detail in the tender.

Presentation of tenders.

(3) For all tenders presented to him in his office upon the last fixed day, or the two days preceding it, he will give the bearer a receipt bearing a number and initialled by himself or an assistant specially deputed for the purpose. The Accountants General at Madras, Bombay, Allahabad, and Lahore will do likewise in respect of tenders presented to them under note (1) to clause 4 of the Government Notification.

Return of Deposit in case of Non-acceptance.

(4) The reverse of this receipt is a form in which, in the event of the tender not being accepted, the tenderer may give to the Comptroller General or Accountant General a receipt for the deposit accompanying it. This form, should, on the third day after the opening of the tenders, be filled up, signed with the same signature as the tender, and be presented at the Office of the Comptroller General or Accountant General. The deposit will then be returned to the bearer in exchange for the receipt.

(5) Deposits upon tenders presented personally, as described in No. (3) above, will be returned only in this way, and will not be sent by post or otherwise. Deposits upon other unsuccessful tenders will be returned by post or by the hands of a clerk.

Tenders made at Post Offices.

(6) Tenders made at Post Offices under note (2) to clause 4 of the Government Notification will be acknowledged by the Post Master or Sub-Post Master concerned in prescribed forms of receipt, and in case of non-acceptance of the tenders, the deposits will be returned to the tenderer or his agent personally on the surrender of the receipt given for the deposit.

Accepted Tenders.

(7) The Comptroller General and the Accountant General at Madras, Bombay, Allahabad, or Lahore (in the case of tenders received by such Accountant General and payable in Madras, Bombay, Allahabad, or Lahore), will issue allotment-certificates to successful tenderers. These certificates will be for the following amounts :—Rs. 100, Rs. 300, Rs. 500, Rs. 1,000, Rs. 2,000, Rs. 5,000, Rs, 10,000, Rs. 20,000, Rs. 50,000, Rs. 1,00,000, making up the full value accepted ; and the deposit on the tender will be divided among them ; they will be substantially of the following form :

This is to certify that, in accordance with the terms of Notification No. 3868-A., dated the 7th July 1903 (Gazette of India, Extraordinary, *dated the 7th July 1903*), *the above named tenderer has engaged to take up Rs. 2,000 of the 3½ Per Cent. Loan of 1900-01 at the rate above mentioned on or before* ; *and that on the said payment being completed, he is entitled, on endorsing and delivering up this certificate, to receive a promissory note or notes of the Government of India for Rs. 2,000 bearing interest from* .

CALCUTTA ;
The 7th July 1903.

O. T. BARROW,
Offg. Comptroller and Auditor General.

Punjab Government Press, Lahore—9-7 03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JULY 16, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED JULY 11, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Simla, the 10th July, 1903.

No. 2641.—In exercise of the powers conferred by sections 4 and 17 of the Indian Arms Act, 1878 (XI of 1878), the Governor General in Council is pleased to direct that the further amendments, hereinafter set forth below, shall be made in the Notification of the Government of India in the Home Department, No. 518, dated the 6th March 1879, as amended by subsequent notifications :

In paragraph IV for clause (*d*) the following clause shall be substituted, namely :

"(*d*) Sections 5, 14 and 16 to all lead, other than leaden bird-shot and bullets when possessed in quantities not exceeding 1 cwt. at any one time in the North-West Frontier Province, in the districts of Rawalpindi and Dera Ghazi Khan in the Punjab, and in the Isakhel Tahsil of the Mianwali District in the Punjab."

In paragraph VI—

(*a*) from rule 1 the words "or to the Political Officer of the State" shall be omitted ;

(*b*) in rule 2, first proviso, for the words "to a frontier district" the words "to the North-West Frontier Province, and to the districts of Rawalpindi and Dera Ghazi Khan in the Punjab, and in the Isakhel Tahsil of the Mianwali District in the Punjab," shall be substituted ;

(*c*) in rule 6-C, for the first five sentences, the following shall be substituted, namely :

"6-C. *Licenses to import into British India, by land or river, arms, ammunition or military stores.*—Licenses to import into British India by land, or river, arms (other than arms for which the

Governor General in Council is to issue special order under rule 5, or arms imported solely for purpose of repair under the proviso to this rule), ammunition or military stores, may be granted by the Magistrate of the district to which such arms, ammunition or military stores are consigned or, if such arms, ammunition or military stores are consigned to a Presidency town or Rangoon, by the Commissioner of Police. The fee payable in respect of each such license shall be rupees five ; but officers granting such licenses are empowered to remit the fee when the arms, ammunition or military stores are of a reasonable quantity, and such officers are satisfied that they are required *bonâ fide* for purposes of protection of person or property. In the case of arms, ammunition or military stores imported from a Native State, a copy of the license shall be sent by the officer granting it to the Political Officer of the State from which they are to be imported. If the district to which the arms, ammunition or military stores are consigned is other than a district on the frontier of British India and they are to cross that frontier by road or river, a copy of the license shall also be sent to the Magistrate of the district on the frontier of British India through which the consignment must pass, who shall, if he thinks necessary, before permitting the arms, ammunition or military stores to leave his district, require the holder of the license to produce them for his inspection. In cases in which the arms, ammunition or military stores are to cross the frontier of British India by rail, a copy of the license shall be sent to the railway authorities at the place to which the arms, ammunition or military stores are to be conveyed by railway " ;

(*d*) in rule 7—

(*i*) for the first paragraph the following shall be substituted, namely :

"7. *Licenses to export arms, ammunition or military stores to the frontier of British India or to places within Feudatory States.*—Licenses to export cannon, arms or ammunition or military stores by land or by river to any place beyond the frontier of British India, and licenses to import arms or ammunition or military stores into, or to export the same out of, the district of Ajmer, may be granted by the Secretary to the Government of India in the Foreign Department, or by any other officer specially empowered by the Government of India to grant them" and

(*ii*) in the last paragraph, for the second and third sentences the following shall be substituted, namely :

" Copies shall also be sent to the Magistrate of the district on the frontier of British India if the articles are to cross that frontier by road or river. If the articles are to be carried across that frontier by rail, a copy of the license should, in the case of consignments despatched from Presidency towns or from Rangoon, be sent to the Commissioner of Police, and, in other cases, to the Magistrate of the district from which the articles are to be despatched " ;

(*e*) In rule 10 for the second sentence the following shall be substituted, namely :

" In the case of articles crossing the frontier of British India by road or river (1) the export license must, within six days of the consignment reaching the district on the frontier and before it leaves British territory, be delivered by the consignee or his agent, or, if the arms, ammunition or military stores are in charge of any person travelling with them, by that person, to t Magistrate of that district or other officer empowered by him on this behalf ; (2) the import license must, within six days of the consignment entering British territory, be shown to the Magistrate of the district on the frontier of British India or other officer empowered by him on this behalf."

d In License Form I from the last condition the words " or to the Magistrate of the is t rict where the external frontier of India is to be crossed " shall be omitted.

EDUCATION.

The 7th July, 1903.

No. 414.—Lala Shiv Diyal, Assistant Inspector of Schools in the Punjab Provincia Educational Service, is appointed to assist in the Educational Bureau attached to the Office of the Director General of Education in India, with effect from the 26th May 1903.

H. H. RISLEY,

Offg. Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

COMMERCIAL EXHIBITIONS.

Simla, the 10th July, 1903.

No. 2411—23-10.—The services of Mr. Percy Brown, Assistant Director of the Delhi Exhibition of Indian Art Manufactures, are replaced at the disposal of the Government of the Punjab, with effect from the forenoon of the 8th July 1903.

J. O. MILLER,

Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATIONS.

SEPARATE REVENUE.

POST OFFICE.

Simla, the 6th July, 1903.

No. 408:-*S. R.*—In exercise of the powers conferred by the Indian Post Office Act, 1898 (VI of 1898), the Governor General in Council is pleased to direct that the following shall be substituted for rules 64 and 65 of the rules published in the Notification in the Finance and Commerce Department, No. 1429-C.S.R., dated the 30th March 1899:

64 No such postal article as aforesaid shall be accepted for transmission by post as a value-payable postal article unless the sender declares that it is sent in execution of a *bonâ fide* order received by him.

Explanation.—An article may be sent by the value-payable post even though it possesses no intrinsic value. Thus, legal documents, bonds, policies of insurance, promissory notes, railway goods and parcel receipts, bills of lading, or ordinary bills for collection may be sent as value-payable postal articles. In the case of a railway receipt or bill of lading sent as a value-payable postal article, it will be sufficient for the purposes of this rule if the article to which the railway receipt or bill of lading relates, has been sent in execution of a *bonâ fide* order.

ACCOUNTS AND FINANCE.

LOANS.

NO. 4119-*A*.

The 9th July, 1903.

RESOLUTION—By the Government of India, Finance and Commerce Department.

By the Notification in the Finance and Commerce Department, No. 3184-A., dated the 1st June 1903, the rules under the Local Authorities Loan Act, 1879, for the raising of loans by local authorities in the open market have been amended so as to admit of any particular loan being defined in sterling currency with the previous sanction of the Governor General in Council.

2. His Excellency in Council gives notice that applications from local bodies for permission to issue sterling loans will be entertained only in cases in which there is a reasonable prospect of the money being raised at a rate of interest not exceeding 4 per

cent., and at a price not appreciably below par. Applications should be made in sufficient time to admit of a reference to the Secretary of State before sanction is given to the issue of a sterling loan. Local bodies borrowing in sterling will have to make their own arrangements for bringing the capital raised to India and for remitting the interest to the holders of the stock. Such remittances will not be made by Government agency nor be brought on to the Government account.

3. The conditions set forth above will be applicable, not only to loans raised under the Local Authorities Loan Act, 1879, but also, as far as may be, to sterling loans which may be raised under special enactments by such local authorities as those specified in the margin.

Municipalities of Calcutta, Bombay and Madras.
Calcutta Port Commissioners.
Bombay Port Trust.
Madras Harbour Trust.
City of Bombay Improvement Trust.

Ordered that the Resolution be published in the *Gazette of India* for general information.

E. N. BAKER,

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 10th July, 1903.

LONDON GAZETTE.

No. 686.—The following extracts are published for general information :

* * * * * * *

"London Gazette," dated the 16th June 1903, *page* 3785.

WAR OFFICE;

Pall Mall, 16th June, 1903.

* * * * * * * *

ARMY VETERINARY DEPARTMENT.

Veterinary-Lieutenant Arthur Stuart Trydell (now Indian Civil Veterinary Department) to be Veterinary-Captain. Dated 3rd June 1901.

* * * * * * * *

PROMOTIONS.

INDIAN SUBORDINATE MEDICAL DEPARTMENT.

ASSISTANT SURGEON BRANCH.

Bengal Establishment.

No. 693.—The following promotions are made, subject to His Majesty's approval:

* * * * * * * *

Supernumerary senior Assistant Surgeon and Honorary Lieutenant Joseph Theophilus Weston (*seconded*) to be supernumerary senior Assistant Surgeon with the honorary rank of Captain (*seconded*) ;

* * * * * * * *

with effect from the 1st January 1903, *vice* senior Assistant Surgeon and Honorary Captain William Cooper, retired.

* * * * * * * *

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

Punjab Government Press, Lahore—16-7-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JULY 23, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED JULY 18, 1903.

LEGILSATIVE DEPARTMENT.

NOTIFICATIONS.

Simla, the 16th July, 1903.

No. 15.—In exercise of the power conferred by section 10 of the Indian Councils Act, 1861 (24 and 25 Vict., c. 67), and section 1 of the Indian Councils Act, 1892 (55 and 56 Vict., c. 14), the Governor-General is pleased to nominate the Hon'ble Sir Charles Lewis Tupper, K.C.I.E., C.S.I., of the Indian Civil Service, to be an Additional Member of the Council of the Governor-General for the purpose of making Laws and Regulations.

No. 16.—In exercise of the power conferred by section 17 of the Indian Councils Act, 1861 (24 and 25 Vict., c. 67), the Governor-General in Council is pleased to appoint Friday, the 31st July, 1903, at 11 A.M. as the time, and the Council Chamber in the Viceregal Lodge, Simla, as the place, for a meeting of the Council of the Governor-General for the purpose of making Laws and Regulations.

J. M. MACPHERSON,

Secretary to the Government of India.

HOME DEPARTMENT.

NOTIFICATIONS.

ESTABLISHMENT.

Simla, the 15th July, 1903.

No. 345.—Mr. J. F. Finlay, C.S.I., has been permitted to resign His Majesty's Indian Civil Service, with effect from the 10th May 1903.

ECCLESIASTICAL.

The 16th July 1903.

No. 298.—The following is to be substituted for Rule II of the revised subsidiary rules for the erection, repair and endowment of monuments in Government cemeteries, published with the Home Department Notification No. 247, dated the 7th June 1901 :

II. The Chaplain or other Officer in charge will send on the application, with the drawing and estimates, with a forwarding letter (Form B annexed) to the Executive Engineer in charge of the cemetery. The Executive Engineer will fill in column 7 and examine and countersign the drawing and the estimate, and return the application, with the drawing and the estimate, to the Chaplain.

The foregoing procedure applies to the case of monuments of all other kinds and to the case of single stone monuments erected by soldiers to their deceased comrades, for the maintenance and repair of which the State is responsible. It does not apply to other single stone monuments. A single stone monument is a monument consisting only of a plain cross head stone or slab over a masonry foundation 3′ × 2′. The total height of such monuments must not exceed 3 feet in the case of masonry graves and 3 feet 6 inches in the case of non-masonry graves.

The repair of fragile or costly work liable to receive damage cannot be undertaken by Government.

H. H. RISLEY,

Offg. Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATIONS.

SEPARATE REVENUE.

POST OFFICE.

Simla, the 16th July, 1903.

No. 4290-*S.R.*—In exercise of the power conferred by section 46 (2) of the Indian Post Office Act, 1898 (VI of 1898), the Governor-General in Council is pleased to direct that the following amendment shall be made, with effect from the 18th July 1903, in Rule 112 published in the Notification in this Department, No. 3146-A., dated the 22nd June 1900.

For clause (2) of the said Rule 112 substitute the following :

(2) In the case of foreign sterling money-orders, the rates of commission shall be the following, namely :

On any sum not exceeding £ 1	...		...	3 annas.
" exceeding £ 1 but not exceeding £ 2	...		...	5 "
" " £ 2	" £ 3	...	...	8 "
" " £ 3	" £ 4	...	...	10 "
" " £ 4	" £ 5	...	...	12 "
" " £ 5 ...	...	...	...	12 "

for each complete sum of £ 5 and 12 annas for the remainder provided that if the remainder does not exceed £ 1, the charge for it shall be 3 annas ; if it does not exceed £ 2, the charge for it shall be 5 annas ; if it does not exceed £ 3, the charge for it shall be 8 annas and if it does not exceed £ 4, the charge for it shall be 10 annas.

No. 4292-*S. R.*—In exercise of the power conferred by section 21 of the Indian Post Office Act, 1898 (VI of 1898), the Governor-General in Council is pleased to direct that the following rule shall be substituted for Rule 8 of the rules published with the Notification of the Government of India in the Department of Finance and Commerce No. 1429-C S. R., dated the 30th March 1899, as amended by the like Notification No. 3566-S.R, dated the 4th August 1899 :

8. A book packet may contain any of the following articles :

(1) newspapers and publications of all kinds ; books, whether blank or printed ; engravings ; photographs, drawings, plans, maps, printed music and proof sheets, with or without the manuscript relating thereto ; blank paper, parchment, or card-board : and generally, anything on paper, parchment or card-board which is printed, engraved, lithographed, papyrographed, or produced by any other mechanical process easy to recognise, except the copying press and the type-writer :

Provided that no card bearing the heading "Postcard" shall be allowed to be transmitted open by post as a book packet ;

(2) business papers, written or drawn wholly or partly by hand, not being of the nature of a letter or having the character of a personal communication, such as deeds, bills of lading, invoices, accounts, proposals and policies of assurance, powers-of-attorney, licenses, statistical returns submitted by or to public officers in their official capacities, and manuscript of all kinds, including manuscript music, not being of the nature of personal correspondence ;

(3) written letters of old date which have previously passed through the post and served their original purpose ;

(4) reproductions of a manuscript or type-written original obtained by a mechanical process of polegraphy (chromography, mimeography, etc.), provided they are handed in at the post office counter and number at least 20 copies precisely identical ;

(5) circulars, *i.e.*, printed notices and printed letters, provided they contain nothing in writing except (*a*) corrections of press errors, (*b*) the date of despatch and the name and address and description of the sender and the name of the addressee, and (*c*) the place, date, and hour, when the circular is a notice of meeting or appointment, and in the case of a notice of meeting, the objects of the meeting.

With any of the above-mentioned articles may be sent anything that is necessary for their safe transmission through the post, such as rollers, etc., and with any of the articles mentioned in clause (1) may be sent any legitimate binding, mounting, or covering, loose or attached, and anything that ordinarily appertains to such articles, as pens and pencils in the case of a pocket-book, photographs in the case of a photograph-book, and card-plates in the case of visiting cards.

Manuscript for the press shall not be reckoned as having the character of personal correspondence within the meaning of clause (2), and may be sent as a book packet.

E. N. BAKER,

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 17th July, 1903.

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

2nd Punjab (Simla) Volunteer Rifles.

No. 729.—Lieutenant Reginald Henry Phillimore resigns his commission, with effect from the 15th June 1903.

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 16th July, 1903.

No. 263.—The services of Lieutenant R. H. Phillimore, R.E., Assistant Engineer, 3rd Grade, Punjab, are placed permanently at the disposal of the Revenue and Agricultural Department, with effect from the 26th June 1903.

SIDNEY PRESTON,

Secretary to the Government of India.

Punjab Government Press, Lahore—23-7-03—625.

Provided, that no card bearing the heading "Post Card" shall be allowed to be transmitted by post as a book packet :—

(1) business papers written or drawn wholly or partly by hand, not having the nature of a letter or having the character of a personal correspondence, such as deeds, bills of lading, invoices, accounts, receipts and similar documents, [illegible] powers [illegible] certificates, [illegible] public [illegible] in their official [illegible], and [illegible] manuscript music not being of the nature of personal correspondence ;

(2) written letters of old date which have already passed through the post [illegible] ;

(3) [illegible] of [illegible] manuscript or typewritten [illegible] reproduced [illegible] photography [illegible], provided [illegible] and number not less [illegible] ;

(4) circulars, etc., printed and [illegible] provided that [illegible] in writing except (a) circulars of [illegible] (b) [illegible] and the name and address [illegible] the addressee, and (c) [illegible] of travelling or [illegible] ; and in the case of [illegible] the contents of the [illegible].

[illegible] of the above-mentioned articles [illegible] is the case of a [illegible] booklet book, photographs in the case of a photograph book and [illegible] cards.

[illegible] shall not be [illegible] as having the character of personal correspondence within the meaning of clause (4), and may be sent as a book packet.

E. N. BAKER,

Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 17th July, 1903.

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

[illegible] Punjab Volunteer Rifles.

No. 7 [illegible] Lieutenant Reginald Henry [illegible] resigns his commission, with effect from the 15th June 1903.

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 18th July 1903.

No. [illegible].—The services of Lieutenant [illegible], Assistant Engineer, [illegible], are placed permanently at the disposal of the Revenue and Agricultural Department, with effect from the [illegible] 1903.

SIDNEY PRESTON,

Secretary to the Government of India.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JULY 30, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED JULY 25, 1903.

MILITARY DEPARTMENT.

Simla, the 24th July, 1903.

LONDON GAZETTE.

No. 744.—The following extracts are published for general information :—

* * * * * * * *

Supplement to the "London Gazette," dated the 26th June 1903, *pages* 4009 *and* 4010.

* * * * * * * *

INDIA OFFICE;
26th June 1903.

The King has been graciously pleased to nominate and appoint—

* * * * * * * *

Major Montagu William Douglas, Indian Army, lately Deputy Commissioner of Delhi District, and a Member of the Executive Committee, Coronation Darbar, Delhi;

* * * * * * * *

To be Companions of the Most Eminent Order of the Indian Empire.

"London Gazette" dated the 30th June 1903, *pages* 4098, 4099 *and* 4100.

INDIA OFFICE;
30th June 1903.

The King has approved of the following promotions among officers of the * * * * * Indian Army Departments made by the Government of India :

* * * * * * * *

INDIAN MEDICAL SERVICE.

* * * * * * * *

Captains to be Majors.

Dated 31st January 1903.

BENGAL ESTABLISHMENT.

* * * * * * * *

Charles Henry James.

* * * * * * * *

Arthur William Treminhere Buist, M.B.

* * * * * * * *

Lieutenants to be Captains.

BOMBAY ESTABLISHMENT.

Dated 27th January 1903.

* * * * * * * *

George Browse.

* * * * * * * *

Matthew Corry, M.B.

* * * * * * * *

INDIAN CIVIL VETERINARY DEPARTMENTS.

Veterinary-Captains to be Veterinary-Majors.

Dated 20th March 1903:

* * * * * * * *

Henry Thomas Pease.

* * * * * * * *

Veterinary-Lieutenants to be Veterinary-Captains.

* * * * * * * *

William Orford Charles Dawson. Dated 4th March 1903.

Dated 20th March 1903.

* * * * * * * *

Alfred Smith.
Frank Shelson Headon Baldrey.
George Kemp Walker.

* * * * * * * *

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATIONS.

Simla, the 24th July, 1903.

No. 273.—Mr. L. M. Seabrooke, Assistant Engineer, 3rd Grade, Punjab, is permitted to resign his appointment in the Public Works Department, with effect from the 12th June 1903.

No. 274.—With reference to Public Works Department Notification No. 429, dated 13th November 1902, Mr. J. Moran is permanently appointed, with effect from 1st July 1903, to the Superior Accounts Branch with the rank of Deputy Examiner, Class II.

SIDNEY PRESTON,
Secretary to the Government of India.

Punjab Government ress, Lahore—30 7.03—625

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, AUGUST 6, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED AUGUST 1, 1903.

HOME DEPARTMENT.

NOTIFICATION.

ESTABLISHMENTS.

Simla, the 30th July, 1903.

No. 379.—Mr. J. G Silcock has been permitted to resign His Majesty's Indian Civil Service, with effect from the 19th June 1903.

H. H. RISLEY,

Offg. Secretary to the Government of India.

Punjab Government Press, Lahore—6-8-03—625.

② Government Gazette

PUNJAB AND IT'S DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, AUGUST 13, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED AUGUST 8, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

JUDICIAL.

Simla, the 7th August, 1903.

No. 1401.—The services of Major E. S. Cooper, 31st Punjab Infantry, are placed temporarily at the disposal of the Government of the Punjab for employment as an Officiating Cantonment Magistrate.

No. 1402.—In the Home Department Notification No. 812, dated the 5th May 1903, granting Major M. Stevens, Cantonment Magistrate, Ferozepore, privilege leave for two months with leave out of India for one year in continuation, *for* "14th May 1903" *read* "24th July 1903."

ECCLESIASTICAL.

The 3rd August, 1903.

No. 346.—The Reverend J. Moulson, a Senior Chaplain on the Bengal (Lahore) Ecclesiastical Establishment, is permitted to retire from the service, with effect from the 12th September 1903.

H. H. RISLEY,

Offg. Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

FORESTS.

Simla, the 5th August, 1903.

No. 870—119-12 *F.*—With reference to the notification of this Department, No. 656-F., dated the 15th June 1903, Mr. B. O. Coventry, Deputy Conservator of Forests, 4th (officiating 3rd) grade, proceeded on the leave granted therein from the afternoon of the 13th July 1903, on which date he was relieved of his duties as Instructor at the Imperial Forest School. From the same date Mr. Coventry reverted to the Punjab Forest List.

* * * * * * *

J. O. MILLER,

Secretary to the Government of India.

FOREIGN DEPARTMENT.

NOTIFICATION.

Simla, the 7th August, 1903.

No. 3693-*I.A.*—The following Resolution of the Government of India in the Foreign Department is published for general information :

No. 3001-I A., dated Simla, the 27th June, 1903.

RESOLUTION.

By the Resolution of the Government of India in the Foreign Department, No. 3129-I.A., dated the 19th August, 1901, the Residents in Hyderabad, Mysore, Baroda, Kashmir, and Nepal, the Agent to the Governor-General in Baluchistan, and all Political Officers in Rajputana and Central India are empowered to grant licenses for the export of arms and ammunition (subject to certain exceptions) to the Native States under their political charge, irrespectively of whether they are required for personal use or for sale. It has now been decided to modify the restrictions imposed by the Resolution, *firstly*, by removing rifles of ·577 bore of the Snider pattern and also magazine pistols from the category of military weapons, and, *secondly*, by authorising Politicial Officers to grant licenses, in certain cases, for the export of rifles of ·303 bore and of ·450 bore of the Martini-Henry pattern, and of a limited quantity of ammunition for use with those weapons.

It has also been agreed that other Political Officers serving under Local Governments should be invested with similar powers.

2. The Governor General in Council is, therefore, pleased under Rule 7 of paragraph VI of the Notification of the Government of India in the Home Department, No. 518, dated the 6th March, 1879, and subsequently amended, and in supersession of Resolution No. 3129-I.A., dated Simla, the 19th August, 1901 :

(1) to empower the Residents in Hyderabad, Mysore, Baroda, Nepal, and Kashmir, the Agents to the Governor-General in Baluchistan and in the North-West Frontier Province, all Political Officers in Rajputana and Central India, the Commissioner of Ajmer-Merwara, the Commissioner in Sind, the Political Agents in Kathiawar, Kolhapur and the Southern Maratha Country, Cutch, Rewa Kantha, Mahi Kantha, and Savantvadi, the Political Superintendent, Palanpur, all Political Officers in the Punjab, the Political Agent in Hill Tippera, the Superintendent of the Tributary Mahals of Orissa, the Commissioner of Chota Nagpur, the Resident in Travancore and Cochin, the Political Agents for Pudukota, Banganapalle, and Sandur, and all Political Agents and Deputy Commissioners in the North-West Frontier Province, to grant licenses for the export of arms and ammunition of every kind (subject to the exceptions noted below), whether for personal use or for sale, to the Native States and tribal territory under their political charge, and

(2) to remit the fee of Rs. 5, in the case of arms and ammunition exported for the personal use of persons of the classes mentioned in paragraph I of the same Notification :

Provided that the power thus conferred upon Political Officers shall not extend—

(*a*) to cannon ; or

(*b*) to military stores of any kind other than sulphur ; or

(*c*) save as hereinafter provided, to rifles of the ·303 bore and of the ·450 bore of the Martini-Henry pattern ; or

(*d*) save as hereinafter provided, to balled ammunition which can be fired from rifles of the bores and pattern specified in sub-head (*c*) :

Provided, secondly, that, notwithstanding anything contained in sub-head (*c*) of the first proviso, licenses for the export of rifles of the bores and pattern there specified may be granted to persons of the classes mentioned in paragraph I of the Notification above cited, subject to the condition that the rifles must either have been in India on the 20th February 1901, or have since been imported with the special sanction of the Government of India :

Provided, thirdly, that, notwithstanding anything contained in sub-head (*d*) of the first proviso, licenses for the export of cartridges of the nature there specified may be granted to persons of the classes mentioned in the Notification above cited, subject to the conditions that the number of such cartridges does not exceed two hundred in any one year, and that they are for the personal use of the licenses.

3. The Commissioners of Police in Madras and Bombay, the Deputy Commissioner of Police in Calcutta, and the other officers to whom authority has been delegated under Rule 7 of the Arms Act Rules, will retain the power which they now possess to grant licenses under prescribed conditions for the export of arms and ammunition to the Native States ; but in future no such officer may grant a license for the export to a Native State of any arms for the import of which into India a special order of the Government of India in the Home Department is required, unless the arms were in India on the 20th February, 1901, or have since been imported with the special sanction of the Government of India, and are required for the personal use of persons of the classes mentioned in paragraph I of the same Notification.

The Hon'ble the Resident at Hyderabad.
The Hon'ble the Resident in Mysore.
The Hon'ble the Agent to the Governor General in Central India.
The Hon'ble the Agent to the Governor General in Rajputana.
The Hon'ble the Agent to the Governor General in Baluchistan.
The Hon'ble the Chief Commissioner of Ajmer-Merwara.
The Hon'ble the Chief Commissioner and Agent to the Governor-General in the North-West Frontier Province.
The Resident at Baroda.
The Resident in Nepal.
The Resident in Kashmir.
The General Superintendent of Operations for the Suppression of Thagi and Dakaiti.

ORDER.—Ordered, that this Resolution be forwarded to all Local Governments and Administrations and to the Political Officers noted on the margin, for information and guidance.

L. W. DANE,
Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 7th August, 1903.

PROMOTIONS.

No. 808.—The following promotions are made, subject to His Majesty's approval :

* * * * * * *

INDIAN MEDICAL SERVICE.

Captains to be Majors.

Dated 28th July 1903.

BENGAL ESTABLISHMENT.

* * * * * * *

Edmund Wilkinson.
George Francis William Ewens, M.D.

* * * * * * *

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

2nd Punjab (Simla) Volunteer Rifles.

No. 818.—James Lennox, Gentleman, to be Lieutenant, with effect from the 15th of June 1903, *vice* Phillimore, resigned.

Captain Ernest Grey Coutts resigns his commission, with effect from the 23rd June 1903.

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

RAILWAYS.

NOTIFICATION.

Simla, the 4th August, 1903.

No. 280.—The following promotions are ordered in the Superior Accounts Branch :

Name.	From	To	Nature of promotion.	With effect from
				1903.
* *	* *	* *	*	*
Mr. J. Moran ...	Deputy Examiner, Class II.	Deputy Examiner, Class I	Temporary	1st July.
* *	* *	* *	*	*

A. BRERETON,

Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 3rd August, 1903.

No. 279.—Mr. H. J. Johnston, Executive Engineer, 1st Grade, Punjab, is appointed to officiate as a Superintending Engineer, with effect from the 23rd July 1903, during the absence of Mr. L. M. Jacob, Superintending Engineer, on privilege leave, or until further orders.

SIDNEY PRESTON,

Secretary to the Government of India.

FROM THE SUPPLEMENT TO THE "GAZETTE OF INDIA," DATED AUGUST 8, 1903.

No. 35—39-2.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

COMMERCIAL EXHIBITIONS.

Simla, the 5th August, 1903.

RESOLUTION.

The accompanying Report on the Exhibition of Indian Art Manufactures at Delhi is published for general information. In the Despatch to the Secretary of State describing the celebrations held at Delhi in honour of His Majesty's Coronation (published in the *Gazette of India* of June 13th) the objects of the Exhibition were explained and a brief account was given of their successful accomplishment, while at the same time the obligations of the Government of India to the Chiefs and others who contributed to the Loan Gallery and Prize Fund were acknowledged. The exceptional success of the Exhibition, in which Indian Arts were represented on a scale and with a completeness not attempted before in this country, was mainly due to the ability and indefatigable industry which the Director, Sir George Watt, ably seconded by his Assistant, Mr. Brown, and a small and hard-working staff, brought to bear on every detail of the organization.

ORDERED that the Resolution with the Report referred to be published in the *Gazette of India* for general information, and that copies be forwarded to the Local Governments and Administrations marginally noted and to the Director and Assistant Director of the Indian Art Exhibition.

The Secretary to the Government of Madras.
" " " " Bombay.
" " " " Bengal.
" " " " the United Provinces.
" Revenue and Financial Secretary to the Government of the Punjab.
" Revenue Secretary to the Government of Burma.
" Honourable the Chief Commissioner Central Provinces.
" " " " " Assam.
" Chief Commissioner, Coorg.
" " " Ajmer.
" Honourable the Resident at Hyderabad.
" " Agent to the Governor General and Chief Commissioner, North-West Frontier Province.

ORDERED also that copies be forwarded to the Foreign Department for information and communication to Political Officers of Native States.

J. O. MILLER,

Secretary to the Government of India.

Report on the Exhibition of Indian Art Manufactures, Delhi, 1902-03.

I have the honour to submit a brief general report of the Art Exhibition held at Delhi in connection with the Coronation Assemblage, from the 30th of December 1902 to the 14th of February 1903.

2. *Preliminary arrangements.*—The organization and control of the Exhibition was placed in the hands of a Director, and Sir George Watt was appointed to that position on 1st March 1902. As Assistant Director I joined the staff on April 6th, 1902.

The first steps taken were (*a*) to obtain a suitable design for the building, and (*b*) to acquaint all intending exhibitors with the scope and character of the Exhibition. The former was the work of a number of hands, and was finally approved on 6th August 1902. The duty of informing the craftsmen of India of the opportunities the Exhibition placed before them was commenced in March 1902, and seven months were occupied by the Director and myself in travelling over the country and personally instructing the artizans as to the kind of manufactures that were considered the most desirable exhibits.

3. *Method of informing intending exhibitors.*—The procedure adopted during this tour was to inform the local officer of the district it was proposed to investigate of the date of our visit, and to request him kindly to arrange a small display of the best local manufactures at some central institution. The artizans and others interested were then asked to be in attendance, and a brief lecture was given explanatory of the aims and objects of the Exhibition, and giving a general idea of those industries of the locality which it was considered most desirable to represent. Questions were then answered and every facility and encouragement given to any deserving craftsmen who wished to send a display of their goods. The results of the tour as seen in the different departments of the Exhibition, showed that the above plan was successful, as it brought the objects in view to the very doors of those directly concerned.

4. *Details of tour.*—Commencing with Burma in May it was thought advisable that I should accompany the Director in this particular instance so that a concerted plan of investigation for the remaining provinces might be matured. A rapid survey therefore of this country was made, all the principal art centres visited, and arrangements entered into with most of the leading artizans for a representative display of their works. On our return to India the Director and myself toured independently in order that more ground might be covered in a lesser time. June therefore was spent by Sir George Watt in travelling through Madras and the Deccan, while all the industrial towns of Bengal, the United Provinces of Agra and Oudh and the Central Provinces were visited by me. Bombay, Kathiawar and Kach occupied both of us during the greater part of July, and Rajputana and Central India were completed towards the end of August. In September Baluchistan, Kashmir and the Frontier Province were visited by the Director, while the greater part of the Punjab was finished by the middle of October when nearly the whole of India having been surveyed, our presence at Delhi was found necessary in order to arrange for the reception of the exhibits which from that time commenced to arrive. A brief account of the lessons learnt while personally interviewing the artizans and others all over India may be considered of interest. The first idea was that this tour would be one of selection, but it soon became evident that the greater part of the work would be that of rejection, as a vast number of intending exhibitors had a very imperfect comprehension of the standard by which their manufactures would be judged. Goods, too, showing European influences of an inferior or unsuitable nature were repeatedly being brought forward and the difficulty of explaining the undesirability of these articles was often met with. Generally speaking, however, the small local displays got together at each industrial centre by the exertions of the local officials showed an enthusiasm and desire to learn which was most encouraging, and it may be accepted that the spirit of emulation inspired by these conferences led to some of the best collections being sent. The advice and assistance, aided by sketches, that the Director and myself were enabled from time to time to give to those interested were no doubt of considerable benefit to many classes of exhibitors.

Briefly, the principal facts brought to light during the tour, directly bearing on the improvement of the art industries were: (1) the advisability of an art expert regularly visiting industrial centres to guide the manufacturers in their designs and workmanship, and (2) the need in a number of the best known art industries for a good illustrated pattern book. In the former case the manufacturer could get the assistance required from the schools of art where they exist, but he rarely chooses to do so. The school of art, represented by the art expert, must therefore go to him. With regard to the pattern book, when visiting any workshop if we requested to see those in use, this invariably led to the production of a most unsuitable European illustrated catalogue. These appear to be used not because the designs were admired or because there was a demand for the reproduction of such designs, but for the reason that they were comparatively easily obtained and supplied a want. A museum would furnish the workman with suitable ideas if he went there, but the Indian craftsman by nature requires either the actual article or a faithful copy before him in his workshop from which to work directly. Pattern books containing a series of working drawings illustrating good designs would, it is felt, considerably improve some of the more important art industries.

5. *The building.*—During the tour Delhi was visited more than once in order to note the progress made in the erection and decoration of the Exhibition building. The site selected was the Kudsia Bagh outside the Kashmir Gate of the city, and the design adopted was mainly Saracenic in character. The façade was ornamented with tile work and fresco painting, the former the production of the potters of Lahore, Multan, Halla and Jeypore, and the latter the work of one of the Masters, aided by the pupils, of the Mayo School of Art, Lahore.

The general construction of the building was carried out by the Punjab Public Works Department, and it was completed and handed over in November 1902. In plan it consisted of an Entrance Hall and three large galleries surrounded by verandah. These were the Main or Sale Gallery, 220 feet by 80 feet, the Loan Collection Court, and the Jewellery Court, each 80 feet by 60 feet, and the Artificers' Gallery or verandah. The whole building occupied a rectangle of 250 feet by 210 feet.

6. *Lighting.*—A point which received special consdieration was the lighting. This was obtained in the daytime by a series of skylights facing the north. By these means windows were dispensed with, and the wall space was thus left free for the display of the larger exhibits, such as carpets, etc. This arrangement proved satisfactory.

7. *Artificial lighting.*—At night the whole building was well illuminated with Acetylene gas. The light given by this installation was a bright and steady one, its only drawback being the soot which from various causes occasionally accumulated.

8. *Fire precautions.*—The rates quoted by the various insurance offices being considered abnormally high, the building was not insured. Special precautions were therefore taken to protect the building and its contents from fire. Tanks holding several thousand gallons of water were constructed in the rear of the premises and connected with them were three portable fire engines capable of throwing a stream of water above the height of the building. In addition to these were four patent fire extinguishers for use in the case of a small local outbreak. All these appliances were under the control of a party of British soldiers who were located in tents near at hand, and could be easily turned out night or day in case of emergency It was felt, however, that the safety of the building mainly lay in the hands of the permanent staff, who were requested to pay more than ordinary attention to the strict instructions issued with regard to the use of lights of fires.

9. *Arrival of the exhibits.*—Exhibits commenced to arrive early in October, but owing to the limited time that could be allowed to most of the intending exhibitors, the greater number of the boxes did not reach Delhi until much later, thus rendering the work of the staff during the month of December particularly arduous.

10. *Railway concessions.*—Reduced rates for the carrying of exhibits were conceded by all the principal railways, and the assistance rendered by those concerned in the transit of goods is worthy of note.

11. *Forwarding of exhibits.*—Specially prepared tickets, labels, invoice forms, etc., were supplied to all intending exhibitors during the previously mentioned tour, to assist them in the despatch of their goods. To facilitate the reception of exhibits the country was divided into eight circles, each circle, ticket label, invoice, etc., being marked with a distinctive colour such as Punjab, brown label; Bengal, blue label, etc.; so that on the arrival of the packages or invoices at Delhi, the different circles could be readily distinguished. This arrangement worked well throughout the whole period of the Exhibition and lightened the work in many directions. All invoices were in triplicate, and instructions as to the use of these were distinctly printed on the back for the guidance of intending exhibitors. The information asked for on these was briefly (*a*) a description of the article, (*b*) the maker's name, (*c*) the price, and (*d*) a number corresponding to a number on a ticket which was required to be attached to all articles. One copy of the invoice was to be forwarded to Delhi by post, the second was to be packed with the goods and the third to be retained by the sender. On arrival at Delhi the articles were checked with the invoice which was then bound up with others of the same circle into folios, and these formed the basis on which the sale department worked, and in fact by means of these most of the business part of the Exhibition was conducted. The exhibits were then removed to that division of the building which the description on the invoice indicated, and in course of time were arranged as artistically as possible in conjunction with similar manufactures from other parts. A statement is appended with regard to the sale collection indicating the number of exhibitors in each circle and the amount of goods sent.

12. *Government purchases.*—To enable artizans in indigent circumstances to put such works in hand as would effectively represent their craft, sums of money were advanced by the Exhibition from time to time to the local officers for this purpose. Goods prepared with this assistance became the property of the Government. Most of these were purchased by the public during the period of the Exhibition, but a number from one cause or another remained unsold. These at the close of the Exhibition and under the orders of Government were forwarded to the different Provincial Museums for inclusion in their collections.

13. *Classification of exhibits.*—As before mentioned, the Exhibition comprised four great sections :—

(*a*) the Main or Sale Gallery ;

(*b*) the Loan Collection Gallery ;

(*c*) the Jewellery Court ;

(*d*) the Artificers' Gallery or Workshop ;

and within each of these galleries the same main classification was observed, namely:—

I.—Metal wares.

II.—Stone wares.

III.—Glass and earthen wares.

IV.—Woodwork.

V.—Ivory, horn, shell and leather wares.

VI.—Lac (Lakh) and Lacquer wares.

VII.—Textiles :—

(*a*) Treatment after leaving the loom, such as dyeing, printing, etc.

(*b*) Woven patterns.

VIII.—Embroidery, braiding, lace, etc.

IX.—Carpets, rugs, etc.

X.—Fine arts.

These classes were next referred to certain divisions so as still further to facilitate the grouping together of manufactures of a particular kind. An important feature of this arrangement was that the goods were grouped according to their kind and not their places of origin. It was thus made possible for visitors to compare, almost at a glance, productions of one kind from all parts of India, both near and remote, and to make purchases in the Sale Gallery without being harassed by the importunities of competing traders.

Dispersed throughout the building were certain small rooms, balconies, etc. These were set apart for the purpose of exemplifying the adaptability of the various better known styles of Indian art, to modern household furnishing and architectural decoration. These and the other features of each gallery will be found fully described in the official catalogue.

14. *Loan Collection Gallery.*—The Loan Exhibits were displayed in a special room distinct from the other galleries and cut off from them by an iron gate. The floor was paved with Agra sandstone. It was considered necessary to take these precautions owing to the great value of the art treasures exhibited therein. It is needless to add that to the generosity of the Princes and Nobles of all parts of India this exceedingly rich and diversified collection was mainly due. An important addition to the gallery was the collective exhibit sent out from London by the Commissioners of the South Kensington Museum. This was of special interest as illustrating some of the finer designs long since lost to India through large collections of the many art wares having been bought up and carried off to foreign museums.

15. *Jewellery Court.*—The Jewellery Court was a gallery corresponding to and built on similar lines to the Loan Collection Gallery. It was specially arranged to allow a selection of the more influential jewellers of India to bring personally to Delhi a set of their most desirable Indian wares, which formed one of the most rare and expensive collections of jewels ever brought together in one building. The spaces for stalls were let to the 8 selected firms at the rate of Rs. 5 per square foot.

16. *The Artisans' Gallery.*—The Artizans' Gallery consisted of a long series of shops situated in the verandah and occupying the entire perimeter of the building. These were given to selected artizans who desired to work in them, and many of the art trades of India were represented. These craftsmen were permitted to sell, free of all Exhibition commission, the articles actually made by them in the building. Although some of these men made a fair amount of profit during their stay in Delhi, the majority of them from a variety of causes did not make much more then their expenses.

17. *Fittings.*—A number of shelves, tables, cases, etc., were required in the building for the proper display of many of the exhibits. With the exception of the fittings in the Loan Collection Court, these were all of a temporary character. Between each pair of the pillars of the Main Gallery, stalls were constructed by means of tables and shelves, each of which corresponded to one of the divisions of exhibits before mentioned under 'Classification.' These fittings were of ordinary unplaned wood and covered with printed cotton and proved quite suitable for their purpose. But the value of and the responsibility connected with the exhibits sent on loan necessitated a different arrangement in the Loan Gallery. Twenty-two plate-glass teak-wood dust-proof cases were especially constructed for the display of articles sent under this head, and the cost of these formed the principal item in the expenditure on "fittings." They added, however, considerably to the appearance of the Court, protected the articles admirably, and at the close of the Exhibition were sold and realized a very fair percentage of their original cost.

18. *Decorations.*—Articles for decorative purposes only were required to a very small extent, as the exhibits themselves were arranged so as to produce an artistic effect, the walls being tapestried with carpets and rugs, and the archways draped with embroidered curtains from Kashmir. The unsightly timbers and girders of the roof, moreover, were covered with printed cottons representing this art in all its forms from Kalahastari to Lahore, while the severe outlines of the supporting columns were relieved by flags and banners generously supplied by nearly every State in the country. The boarded floor was covered with a fibre matting of a green pattern which proved a most suitable article, and admirably completed the general effect.

19. *Value of the exhibits.*—Owing to the almost priceless value of some of the Loan Exhibits it is difficult to form even an approximate estimate of the value of the complete collection. The Main or Sale Gallery may, however, be computed to have contained goods equivalent to ten-and-a-half lakhs of rupees. The Jewellery Court exhibits, as assessed by a competent authority, were valued at 140 lakhs, and the Loan Collection may be put down at a similiar figure. The building may therefore be said to have held goods to the total value of nearly *three crores* of rupees.

20. *Police precautions.*—To efficiently guard the building, the nature of the construction of which had been carefully studied with regard to this important particular, a force of 120 policemen under a European Inspector was attached to the Exhibition. These patrolled inside and outside the buildings in the daytime, and the precincts and roof at night. The efficiency of these precautions may be judged by the fact, that, except for a little petty pilfering, no case requiring the attention of the police occurred.

21. *Medical assistance.*—As a small army of workmen was employed for several months about the building and had quarters in the Exhibition Camp, arrangements were made with the Civil Surgeon to depute a Hospital Assistant to be in attendance at certain hours every day in case of illness or accident. It was thought also that his services might be required in connection with the occupants of the Artizans' Gallery many of whom coming from warmer climates such as Madras and Burma might feel the rigors of the Delhi winter. Fortunately the duties of this officer throughout were of a very light character, no sickness or accident of any importance having to be recorded.

22. *Awards of medals and certificates.*—Awards of medals and certificates were made to those exhibitors who displayed goods of sufficient merit. For this work a Judging Committee was appointed under the orders of the Government of India. This consisted of the following :—

President :

COLONEL SIR SWINTON JACOB, K. C. I. E., I. S. C.

Members :

COLONEL STUART BEATSON, C. B., I. S. C.

C. L. BURNS, ESQ.

CHEVALIER O. GHILARDI.

COLONEL T. H. HENDLEY, I. M. S., C. I. E.

R. D. MACKENZIE, ESQ.

THE HONOURABLE MUNSHI MADHO LAL.

BHAI RAM SINGH.

E. THURSTON, ESQ.

Secretary :

R. E. V. ARBUTHNOT, Esq., I. C. S.

The total number of awards made by the Committee amounted to 327 and consisted of 19 gold medals, 83 silver medals, 115 bronze medals, and 110 certificates of commendation. Fourteen of the gold and five of the silver medals were generously presented by the following gentlemen :

Gold medals.

His Highness Raja-i-Rajgan of Kapurthala.
Raja Baldeo Singh, Raja of Poonch.
The Honourable Munshi Madho Lal, of Benares.
His Highness the Maharaja of Cooch Behar.
General Raja Sir Amar Singh, K. C. S. I., of Jammu and Kashmir.
Raja Bahadur Ranjit Sinha, of Nashipur.

Silver medals.

His Highness Raja-i-Rajgan of Kapurthala.
Raja Bahadur Ranjit Sinha, of Nashipur.
The Indian Industrial Association.

23. *Awards of money prizes.*—In addition to the above a sum of Rs. 4,900 was subscribed for distribution as money prizes among craftsmen who submitted exhibits of superior workmanship.

The following are the names of the contributors to this fund :

The Honourable Sir E. Law, K.C.M.G., C. S. I.
His Highness the Raja of Tippera.
His Highness the Raja of Nabha.
Babu Manmatha Nath Roy Chaudhury, of Santosh, Calcutta.
Babu Dooli Chand, of Calcutta.
Raja Bahadur Ranjit Sinna, of Nashipur.
Babu Dhanpat Singh, Nowlakha, Azimganj.
Lalubhai Samaldas, Esq., of Bhavnagar.
The Indian Industrial Association.

A full and detailed list of the awards made by the Judging Committee, with their recommendations as to the disbursement of the money awards, was published by the Government of India in their Resolution No. 16—5-7, dated April 24th, 1903.

24. *Catalogue*—A brief "Abstract Catalogue and Guide" was prepared and placed in the hands of the public on the opening day. It contained short references to most of the more important exhibits, and was sold at 4 annas.

A considerably enlarged edition of this was prepared during the time the Exhibition remained open. It contains descriptions of most of the art industries of India and complete references to all the different divisions of exhibits. It is profusely illustrated and should form a record of the Exhibition and of Indian arts and industries generally.

25. *Illustrated folio of special exhibits.*—A proposal by the Judging Committee that reproductions of some of the more important exhibits, particularly those on loan, should be made and issued in folio form for use in Art Schools, is being put into effect.

26. *Opening ceremony.*—The Exhibition was formally opened by His Excellency the Viceroy on the forenoon of December 30th, 1902. A specially constructed platform was thrown out from the steps of the Main Entrance of the building. This was reserved for the principal guests of His Excelleney, and for the Ruling Princes and high officials of Government. On the open space in front of the platform, accommodation was arranged for the general public, and complimentry tickets were issued for the seats. The proceedings commenced with a speech by His Excellency the Viceroy, the doors were then thrown open and those seated on the platform only were admitted. At noon the general public were allowed entrance.

27. *Rates of admission.*—From December 31st to January 2nd the rate of admission was Re. 1, but owing to so many people crowding into the building it was decided to raise this to Rs. 2. No appreciable reduction of those desiring admission taking place, this rate was on January 6th and 8th further raised to Rs. 5, but was reduced again on the 7th, 9th and 10th to Rs. 2. On the 11th, the crowds having by this time become normal, the original price of admission of Re. 1 was resumed, and this rate was charged until January 24th. From that date until the closing day, February 14th, so as to give all classes of the community an opportunity of inspecting the collections, 4 annas only was charged, and a large number of the working classes of Delhi and elsewhere took prompt advantage of this concession and visited the Exhibition in large numbers.

28. *Purdah days.*—While the Exhibition remained open, several Sundays were reserved for ladies only, and large parties of *purdahnashin* and other ladies took the opportunity to see the collections.

29. *Season tickets.*—Season tickets which entitled the holders to admission at any time during the period of the Exhibition were on sale at Rs. 5 each. As a first instalment 500 of these were stocked; it was anticipated that this number would be equal to the demand of the first few weeks at least. It is significant that these were all disposed of in 2 hours.

30. *Hours of admission.*—From December 31st until January 22nd the doors were opened from 9 A. M. until midnight. From January 23rd to January 31st, from 9 A. M. until 10 P. M.; after this date artificial lighting was discontinued and the doors were closed at sunset.

31. *Sales.*—The main Gallery was the Sale Gallery, and every article displayed therein was priced and sent by the exhibitors for the purpose of sale. Every effort was made by the Director and myself while on tour and by correspondence to get exhibitors to quote the very lowest paying price on their goods, as the intention was to conduct sales by means of a selected staff, and no bargaining could be entertained. This principle of a fixed price was naturally not quite comprehended by some of the smaller traders and led in some cases to difficulties, but it may be accepted that in the main the prices quoted were of a very reasonable character. An Exhibition commission of 10 per cent. over and above the exhibitor's price was charged on all sale goods, and in cases where freight and packing was defrayed by Government, a further commission of 15 per cent. was added to these charges. The latter figure was arrived at after calculations had been made on a number of goods received from all parts of the country, and, although in the case of a light fabric from the Punjab it was somewhat in excess, and on a heavy article as (for instance) a piece of furniture from Madras, a small loss to the Exhibition was probably incurred, the 15 per cent. average may be considered fair.

For the first few days after the opening ceremony the Exhibition was conducted on the lines of a museum, and no sales took place. On January 3rd, however, purchases were allowed, and from then until the closing day practically the whole of the staff was engaged in meeting the wants of customers. The principal transactions were the work of a number of European Sales Clerks—professional shop assistants—who were specially employed for this purpose. To check the sales properly the following system was adopted: Each clerk was provided with a sale voucher book, the vouchers being numbered in triplicate. On a sale being effected the salesman wrote the number, description and price of the article and the purchaser's name in triplicate in his book. Two of these leaves were then detached and presented with the money to the cashier who stamped both "paid." One copy was retained by the purchaser as a receipt, and the other handed over to the Accounts Clerk, and by means of these each evening the daily takings were checked. The third copy of the voucher remained in the Sales Clerk's book as a reference. A special ticket was also supplied to enable purchasers to pass their goods out of the building. This was found necessary in order to put a check on goods being taken out of the building without authority.

32. *Museum purchases.*—To enable the permanent collections of the country to be specially benefited by the Exhibition, the representatives of the Provincial Museums were allowed to make a first selection of the articles displayed. Extensive purchases were made by all these institutions, and the specimens obtained by them should form valuable additions to their galleries.

33. *Replicas.*—In cases where articles had been already purchased, but of which copies were desired by other persons, arrangements were entered into with the manufacturers for a supply of replicas of any particular exhibit for which an order might be registered. These transactions were conducted through the official agent to the Exhibition.

34. *Official Agents.*—An important condition attached to all sales was that no articles, except those of which duplicates existed on the stalls, should be removed by the purchaser until the close of the Exhibition. This rule was found necessary to prevent the Sale Gallery being denuded of goods while the Exhibition remained open. A visitor, therefore, who purchased goods on the above understanding having received his sale voucher handed this over to an official agent (whose office was in the Exhibition), and this officer undertook to pack and deliver the purchases to his address at the close of the Exhibition. The firm employed to conduct this work was that of Messrs. Thomas Cook & Son, Bombay, who tendered the most favourable proposals, and these were accepted, and their office opened on December 15th.

35. *Refreshments.*--The sole right to supply refreshments in the Exhibition was granted to Messrs. Oakes & Co., of Madras, who paid Rs. 3,500 for the privilege. A special bay of the building was reserved to this firm for the purpose, and luncheons, teas, dinners and the usual light refreshments were provided by them.

36. *Visits to the Exhibition by students, artizans and others sent by Local Governments.*—On a proposal made by the Government of India, a number of instructors and students of Schools of Art, artizans and others were enabled by means of funds provided for the purpose to visit Delhi and study the different designs and methods employed in the various manufactures displayed in the Exhibition.

These on their arrival were given suitable quarters in the Kudsia Garden and afterwards conducted over the Exhibition by either the Director or myself. The various industries as exemplified in the collections were then described to them and the characteristics of the different designs and processes explained, an effort being made to give these men an intelligent idea of the art manufactures of India generally. They were then supplied with drawing materials and encouraged to make notes or sketches of any particular design which it was considered might be useful to them in their work.

A statement is appended showing the institutions which availed themselves of the opportunity and the number of instructors and students who were sent to Delhi for this purpose.

37. *Close.*—The Exhibition closed on February 14th, and at once the duty of checking, packing and returning the unsold goods was put in hand. This entailed a great amount of work, but the bulk of the boxes were despatched by April 16th, on which date the railway concession expired, and on the following day the building was handed over to the Superintending Engineer, and the dismantling commenced. In arranging for the despatch of goods to the Exhibition and returning the unsold and loan exhibits, a considerable amount of help was very freely given by the different local officers, Principals of Schools of Art, and many others without whose assistance this work would have been rendered doubly difficult. In connection with the exhibits sent on loan many of the Native States and others who sent large collections deputed an agent to come personally to Delhi to identify and take over their articles. This considerably facilitated the despatch of goods from this Gallery and obviated what under other circumstances might have led to delay, loss, and considerable correspondence.

After the work of despatching the boxes had been accomplished, the remaining staff were employed in settling the exhibitors, individual accounts and considering small claims for compensation owing to loss, damage or other causes. A small number of exhibits, being without tickets or having been received by the Exhibition uninvoiced, have been packed and sent to the Lahore Museum in charge of a clerk to await identification. Claims for these are now coming in, and it is anticipated that all these will be accounted for at a very early date.

38. *Staff.*—From the initial stages of the undertaking until November 1st, 1902, the staff consisted of the Director and myself with a personal assistant each. A Supervisor was also sanctioned to superintend the building operations at Delhi. In November the work having become more concentrated, the staff was augmented and an office in the Exhibition building organized. The additional officers engaged were a Secretary, an Assistant Secretary and a number of subordinate assistants. The last named, on the opening of the Exhibition, undertook the duties of salesmen, but the bulk of this work was in the hands of the professional shop assistants before mentioned. To fill up some of these subordinate posts the provincial Schools of Art were invited to send men connected with their institutions, as it was anticipated that their art knowledge would benefit the Exhibition and the experience gained be of use to their school in the future. Three art instructors were enabled to avail themselves of this opportunity, and these men proved of great service.

With regard to the conduct and working capacity of the staff a few words are due. The exceptional character of the undertaking, previous experience on the lines actually followed being limited, rendered a correct forecast of the number of assistants required a difficult matter. At times and in certain departments the pressure of work seemed more than the numbers engaged could possibly control. All, however, laboured unsparingly, willingly devoting abnormally long hours to the work in hand, and it is felt that the result accomplished is not a little due to the spirited co-operation of the staff.

PERCY BROWN,

Assistant Director, Indian Art Exhibition, Delhi.

I.

List of Educational Institutions from which Instructors and Students were sent to study the Manufactures displayed in the Exhibition.

Province.	Name of institution.	Numbers who visited the Exhibition.		Remarks.
		Instructors.	Students.	
United Provinces of Agra and Oudh.	Lucknow Technical School ...	7	4	
	Industrial College, Roorkee ...	3	6	
Bengal	Calcutta School of Art ...	3	8	
Bombay	Bombay School of Art ...	5	20	
	Khairpur Industrial School ...	2	...	
Central Provinces	Various Educational Institutions ...	26	...	
Punjab	Mayo School of Art, Lahore ...	4	30	
	Railway Technical School, Lahore	3	15	
	Amritsar Industrial School ...	3	8	
	Delhi Industrial School ...	4	36	
	Gujrat	...	...	Artizans sent by local officers.
	Shahabad	7	...	
	Karnal	...	...	
	Total ...	67	127	

II.

Statement showing Exhibits received in the Commission Sale Gallery of the Indian Art Exhibition, Delhi.

Province or Circle.	Number of exhibitors.	Amount of goods received.	Remarks.
		Rs.	
Assam I	...	...	
Bengal II	51	93,643	
Bombay III	132	1,12,819	
Burma IV	27	22,674	
Central Provinces V	36	42,350	
Central India and Rajputana VI	125	91,648	
Madras VII	97	1,05,986	
United Provinces of Agra and Oudh VIII	115	3,45,225	
Punjab IX	192	2,54,039	
Total ...	775	10,68,384	

PERCY BROWN,

Assistant Director, Indian Art Exhibition, Delhi.

Punjab Government Press, Lahore—14-8-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, AUGUST 20, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED AUGUST 15, 1903.

HOME DEPARTMENT.

NOTIFICATION.

EXAMINATIONS.

Simla, the 8th August, 1903.

No. 470.—The following regulations respecting the examination of candidates for the Civil Service of India, to be held in August, 1904, are published for general information.

[*Copies of this paper may be obtained on application to the Secretary to the Government of India, Home Department.*]

EXAMINATIONS FOR THE CIVIL SERVICE OF INDIA.

An open Competitive Examination for admission to the Civil Service of India will be held in London, under the subjoined Regulations, commencing on the 1st August, 1904.

The number of persons to be elected at this Examination will be announced hereafter.

No person will be admitted to compete from whom the Secretary, Civil Service Commission, has not received on or before the 1st July, 1904, *an application on the prescribed form, accompanied by a list of the subjects in which the candidate desires to be examined.*

If Candidates who fill up and return the Application Form do not recieve an acknowledgment of it within four complete days, they should write to the Secretary, Civil Service Commission, Burlington Gardens, London, W.

The Order for admission to the Examination will be posted on the 18th July, 1904, to the address given on the Form of Application. It will contain instructions as to the time and place at which candidates will be required to attend, and as to the manner in which the fee (£6) is to be paid.

CIVIL SERVICE COMMISSION;

17th June, 1903.

REGULATIONS.

*** *The following Regulations, made by the Secretary of State for India in Council, are liable to alteration from year to year.*

1. An Examination for admission to the Civil Service of India, open to all qualified persons, will be held in London in August of each year. The date of the Examination and the number of appointments to be made for each Province will be announced beforehand by the Civil Service Commissioners.

2. No person will be deemed qualified who shall not satisfy the Civil Service Commissioners:

(i) That he is a natural-born subject of His Majesty.

(ii) That he had attained the age of twenty-one, and had not attained the age of twenty-three, on the first day of the year in which the examination is held.

[N.B.—*In the case of Natives of India it will be necessary for a Candidate to obtain a certificate of age and nationality issued under Notification of the Government of India, No. 2252, dated 21st August, 1888, as amended by Notification No. 404, dated 19th May, 1898, and signed, should he be a resident in British India, by the Secretary to Government of the Province, or the Commissioner of the Division within which his family resides, or should he reside in a Native State, by the highest Political Officer accredited to State in which his family resides.*]

(iii) That he has no disease, constitutional affection or bodily infirmity, unfitting him or likely to unfit him, for the Civil Service of India.

(iv) That he is of good moral character.

3. Should the evidence upon the above points be *primâ facie* satisfactory to the Civil Service Commissioners, the Candidate, on payment of the prescribed fee, will be admitted to the Examination. The Commissioners may, however, in their discretion, at any time prior to the grant of the Certificate of Qualification hereinafter referred to, institute such further inquiries as they may deem necessary; and if the result of such inquiries, in the case of any Candidate, should be unsatisfactory to them in any of the above respects, he will be ineligible for admission to the Civil Service of India, and if already selected, will be removed from the position of a Probationer.

4. The open Competitive Examination will take place only in the following branches of knowledge:

English Composition ...		500
Sanskrit Language and Literature ...		500
Arabic Language and Literature ...		500
Greek Language and Literature ...		750
Latin Language and Literature ...		750
English Language and Literature (including special period named by the Commissioners) (a) ...		500
French Language and Literature ...		500
German Language and Literature ...		500
Mathematics (pure and applied) ...		900
Advanced Mathematical subjects (pure and applied) ...		900
Natural Science, *i.e.*, any number not exceeding *three* of the following subjects:		
Chemistry ...	600	1,800
Physics ...	600	
Geology ...	600	
Botany ...	600	
Zoology ...	600	
Animal Physiology ...	600	

(a) A Syllabus, defining the character of the Examination in the various subjects, may be obtained on application to the Secretary, Civil Service Commission, Burlington Gardens, London, W.

Greek History (Ancient, including Constitution)	400
Roman History (Ancient, including Constitution)	400
English History	500
General Modern History (one of the periods specified in the syllabus issued by the Commissioners) (a)	500
Logic and Mental Philosophy (Ancient and Modern)	400
Moral Philosophy (Ancient and Modern)	400
Political Economy and Economic History	500
Political Science (including Analytical Jurisprudence, the Early History of Institutions, and Theory of Legislation)	500
Roman Law	500
English Law. Under the head of "English Law" shall be included the following subjects, *viz.* :—(1) Law of Contract; (2) Law of Evidence; (3) Law of the Constitution; (4) Criminal Law; (5) Law of Real Property; and of these five subjects Candidates shall be at liberty to offer any four, but not more than four	500

Candidates are at liberty to name any or all of these branches of knowledge (a). None is obligatory.

5. The merit of the persons examined will be estimated by marks; and the number set opposite to each branch in the preceding regulation denotes the greatest number of marks that can be obtained in respect of it.

6. The marks assigned to Candidates in each branch will be subject to such deduction as the Civil Service Commissioners may deem necessary (b) in order to secure that no credit be allowed for merely superficial knowledge.

7. The Examination will be conducted on paper and *viva voce*, as may be deemed necessary.

8. The marks obtained by each Candidate, in respect of each of the branches in which he shall have been examined, will be added up, and the names of the several Candidates who shall have obtained, after the deduction above mentioned, a greater aggregate number of marks than any of the remaining Candidates, will be set forth in order of merit, and such Candidates shall be deemed to be selected Candidates for the Civil Service of India, provided they appear to be in other respects duly qualified. Should any of the selected Candidates become disqualified, the Secretary of State for India will determine whether the vacancy thus created shall be filled up or not. In the former case, the Candidate next in order of merit, and in other respects duly qualified, shall be deemed to be a selected Candidate. A Candidate entitled to be deemed a selected Candidate but declining to accept the nomination as such, which may be offered to him, will be disqualified for any subsequent competition.

9. Selected Candidates, before proceeding to India, will be on probation for one year, at the end of which time they will be examined, with a view of testing their progress in the following subjects (c) :

	Marks.
Compulsory—	
1. Indian Penal Code	400
2. Code of Criminal Procedure	200
3. The Indian Evidence Act	200
4. Indian History	400
*5. The Principal Vernacular Language of the Province to which the Candidate is assigned	400
Optional. [Not more than one of the following subjects]	
1. Hindu and Muhammadan Law	450
†2. Sanskrit	400
†3. Arabic	400
4. Persian	400
5. Chinese (for Candidates assigned to the Province of Burma only) ...	400

*The principal Vernacular Language prescribed for each Province to which Candidates are assigned is as follows :

For the United Provinces of Agra and Oudh, the Punjab, and the Central Provinces	Hindustani.	
For Burma	Burmese.	
For Bombay	Marathi.	
For Madras	Tamil or Telugu.	At the option of the Candidate.
For the Lower Provinces of Bengal	Hindustani or Bengali.	At the option of the Candidate.

In Hindustani the Candidate will be required to be acquainted with both the Persian and the Nagari character; and in the case of the last two Provinces mentioned above, a Candidate whose Vernacular Language is either of the languages shown against his Province, must offer the other for examination.

†These subjects may not be offered by any Candidate who has offered them at the Open Competition.

(a) A Syllabus, defining the character of the Examination in the various subjects, may be obtained on application to the Secretary, Civil Service Commission, Burlington Gardens, London, W.

(b) No deduction will be made from the marks assigned to Candidates in Mathematics or English Composition.

(c) Instructions, showing the extent of the Examination, will be issued to the successful Candidates as soon as possible after the result of the Open Competition is declared.

In this Examination, as in the Open Competition, the merit of the Candidates examined will be estimated by marks (which will be subject to deductions in the same way as the marks assigned at the Open Competition), and the number set opposite to each subject denotes the greatest number of marks that can be obtained in respect of it. The Examination will be conducted on paper and *vivâ voce*, as may be deemed necessary. This Examination will be held at the close of the year of probation, and will be called the "*Final Examination*."

If any Candidate is prevented by sickness or any other adequate cause from attending such examination, the Commissioners may, with the concurrence of the Secretary of State for India in Council, allow him to appear at the Final Examination to be held in the following year, or at a special examination.

10. The Selected Candidates will also be tested during their probation as to their proficiency in Riding.

The examinations in riding will be held as follows :

(1) Shortly after the result of the Open Competitive Examination has been declared, or at such time or times as the Commissioners may appoint during the course of the probationary year.

(2) Again, at the time of the Final Examination, Candidates who may fully satisfy the Commissioners of their ability to ride well and to perform journeys on horseback, shall receive a Certificate which shall entitle them to be credited with 200 or 100 marks, according to the degree of proficiency displayed, to be added to their marks in the Final Examination.

(3) Candidates who fail to obtain this Certificate, but who gain a Certificate of minimum proficiency in riding, will be allowed to proceed to India, but will be subjected on their arrival to such further tests in riding as may be prescribed by their Government, and shall receive no increase to their initial salary until they have passed such tests to the satisfaction of that Government. A Candidate who fails at the end of the year of probation to gain at least the Certificate of minimum proficiency in riding, will be liable to have his name removed from the list of Selected Candidates.

11. The Selected Candidates who, on examination, shall be found to have a competent knowledge of the subjects specified in Regulation 9, and who shall have satisfied the Civil Service Commissioners of their eligibility in respect of nationality, age, health, character, conduct during the period of probation, and ability to ride, shall be certified by the said Commissioners to be entitled to be appointed to the Civil Service of India, provided they shall comply with the regulations in force, at the time, for that Service.

12. Persons desirous to be admitted as Candidates, must apply on Forms, which may be obtained from "The Secretary, Civil Service Commission, London, W.," at any time after the 1st December, in the year previous to that in which the Examination is to be held. The Forms must be returned so as to be received at the office of the Civil Service Commissioners on or before the 1st July (or, if that date should fall upon a Sunday or public holiday, then on or before the first day thereafter on which their office is open), in the year in which the Examination is to be held.

The Civil Service Commissioners are authorized by the Secretary of State for India in Council to make the following announcements :

(i) *Selected Candidates will be allotted to the various provinces upon a consideration of all the circumstances, including their own wishes ; but the requirements of the Public Service will rank before every other consideration.*

(ii) *An allowance amounting to £100 will be given to all Candidates who pass their probation at one of the Universities or Colleges which have been approved by the Secretary of State,* viz., *the Universities of Oxford, Cambridge, Dublin, Glasgow, Edinburg, St. Andrews, and Aberdeen ; Victoria University, Manchester ; University College, London ; and King's College, London ; provided such Candidates shall have passed the Final Examination to the satisfaction of the Civil Service Commissioners, and shall, in the opinion of the Secretary of State, have conducted themselves well and complied with such rules as may be laid down for the guidance of Selected Candidates. The whole probation must ordinarily be passed at the same Institution. Migration will not be permitted except for special reasons approved by the Secretary of State.*

(iii) *The allowance of £ 100 will not be paid to any Selected Candidate until he has been certified by the Civil Service Commissioners to be entitled to be appointed to the Civil Service of India ; and every Certificated Candidate must, before receiving his allowance, given a written undertaking to refund the amount in the event of his failing to proceed to India.*

(iv) *All Candidates obtaining Certificates will be also required to enter into covenants, by which, amongst other things, they will bind themselves to make such payments as, under the rules and regulations for the time being in force, they may be required to make towards their own pensions or for the pensions of their families. The stamps payable on these covenants amount to £ 1.*

(v) *The seniority in the Civil Service of India of the Selected Candidates will be determined according to the order in which they stand on the list resulting from the combined marks of the Open Competitive and Final Examinations.*

(vi) *Selected Candidates will be required to report their arrival in India within such period after the grant of their Certificate of Qualification as the Secretary of State may in each case direct.*

(vii) *Canditates rejected at the Final Examination held in any year will in no case be allowed to present themselves for re-examination.*

N.B.—A Manual of Rules and Regulations applicable to members of the Covenanted Civil Service of India has been compiled by permission of the Government of India and may now be procured either from Messrs. A. Constable & Co., 2, Whitehall Gardens, S. W., or from Mr. E. A. Arnold, 37, Bedford, Street, Covent Garden. Price 2*s*. 6*d*.

The Commissioners have been requested by the Secretary of State for India to draw the attention of Selected Candidates to the prefatory note attached to this manual, as it is considered important that it should be clearly understood that this compilation is not to be regarded in any other light than that of a collection, made for facility of reference, of certain information and rules, that it is by no means exhaustive, and that it is liable to such modifications as may from time to time be sanctioned by competent authority.

[*Copies of this paper may be obtained on application to the Secretary to the Government of India, Home Department.*]

CIVIL SERVICE OF INDIA; CLERKSHIPS (CLASS I) IN THE HOME CIVIL SERVICE; AND EASTERN CADETSHIPS.

SYLLABUS showing the extent of the Examination in certain subjects.

English Composition.—An Essay to be written on one of several subjects specified by the Civil Service Commissioners on their Examination Paper.

English Language and Literature.—The examination will be in two parts. In the one the Candidates will be expected to show a general acquaintance with the course of English Literature, as represented (mainly) by the following writers in verse and prose, between the reign of Edward III and the accession of Queen Victoria:

Verse—Chaucer, Langland, Spenser, Shakespeare, Milton, Dryden, Pope, Gray, Collins, Johnson, Goldsmith, Crabbe, Cowper, Campbell, Wordsworth, Scott, Byron, Coleridge, Shelley, Keats.

Prose—Bacon, Sir Thomas Browne, Milton, Cowley, Bunyan, Dryden., Swift, Defoe, Addison, Johnson, Burke, Scott, Macaulay (Essays and Biographies).

A minute knowledge of the works of these authors will not be looked for in this part of the Examination, which will, however, test how far the Candidates have studied the chief productions of the greatest English writers *in themselves*, and are acquainted with the leading characteristics of their thought and style, and with the place which each of them occupies in the history of English Literature. Candidates will also be expected to show that they have studied in these authors the history of the English Language in respect of its vocabulary, syntax, and prosody.

The other part of the Examination will relate to one of the periods named below, which will follow each other year by year in the order indicated.

1.	A.D. 1360 to A.D. 1600
(1904)	[Chaucer to Spenser.]
2.	A.D. 1600 to A.D. 1700
(1905)	[Shakespeare to Dryden.]
3.	A.D. 1700 to A.D. 1800
(1906)	[Pope to Cowper.]
4.	A.D. 1800 to A.D. 1832
(1907)	[Nineteeth Century writers to the death of Scott.]

The Examination in this part will require from Candidates a more minute acquaintance with the history of the English Language and Literature, as illustrated in the chief works produced in each period, and will be based to a considerable extent, but by no means exclusively, on certain books specified each year by the Commissioners.* The names placed under the dates are intended to suggest the general character of the literary development of the period, and, consequently, the natural limits of the Examination. All the works of Shakespeare, for example, will be regarded as falling within the period 1600 to 1700; all the works of Swift within the period 1700 to 1800; all the works of Scott and Wordsworth, and all the works of Macaulay within the period 1800 to 1832.

French Language and Literature.—Translation and Composition. Critical questions on the French Language and Literature. Conversation.

German Language and Literature.—Translation and Composition. Critical questions on the German Language and Literature. Conversation.

Latin Language and Literature.—Translation from Latin into English, Composition in Prose and Verse, or (as an alternative for Verse-Composition), a Latin Essay or Letter. Critical questions on the Latin Language (including questions on Philology) and Literature.

Greek Language and Literature.—Translation from Greek into English, Composition in Prose and Verse, or (as an alternative for Verse-Composition) a Greek Dialogue or Oration. Critical questions on the Greek Language (including questions on Philology) and Literature.

Sanskrit Language and Literature.—Translation from Sanskrit into English, and from English into Sanskrit. History of Sanskrit Literature (including knowledge to such Indian history as bears upon the subject); Sanskrit Grammar; Vedic Philology.

---

* The books for 1904 are:

Chaucer: Tales of the Prioress, the Nonne Preste, the Wife of Bath (without the Prologue), the Canon Yeoman.
The Romaunt of the Rose, to line 1705 (in Skeat's edition).
Spenser: Fairy Queen, I., II.
Shepherd's Calendar.
Wyatt and Surrey: Poems.
Malory: Morte d'Arthur.
Ascham: Toxophilus.
Hooker: Ecclesiastical Polity, Bk. I.

Arabic Language and Literature.—Translations as in Sanskrit; History of Arabic Literature (including knowledge of such Arabic History as bears upon the subject); Arabic Grammar; Arabic Prosody.

English History.—General questions on English History from A.D. 800 to A.D. 1848; questions on the Constitutional History of England from A.D. 800 to A.D. 1848.

General Modern History.—Candidates may, at their choice, be examined in any one of the following periods:

1. From the accession of Charlemagne to the Third Crusade.

   [A.D. 800 to A.D. 1193.]

2. From the Third Crusade to the Diet of Worms.

   [A.D. 1193 to A.D. 1521.]

3. From the Diet of Worms to the death of Louis XIV.

   [A.D. 1521 to A.D. 1715.]

4. From the accession of Louis XV, to the French Revolution of 1848.

   [A.D. 1715 to A.D. 1848.]

Periods 3 and 4 will include Indian History.

Greek History.—Questions on the General History of Greece to the death of Alexander; questions on the Constitutional History of Greece during the same period.

Roman History.—Questions on the General History of Rome to the death of Vespasian; questions on the Constitutional History of Rome during the same period.

In Greek and Roman History Candidates will be expected to show a knowledge of the original authorities.

Mathematics.—Algebra, Geometry (Euclid and Geometrical Conic Sections), Plane Trigonometry, Plane Analytical Geometry (less advanced portions). Differential Calculus (Elementary), Integral Calculus (Elementary), Statics, Dynamics of a Particle, Hydrostatics, Geometrical Optics.

Candidates may use the methods of the Differential and Integral Calculus in any other division of the subject, but the questions will be such as can be solved without the aid of these methods.

Advanced Mathematics.—Higher Algebra (including Theory of Equations), Plane and Spherical Trigonometry, Differential Calculus, Integral Calculus, Differential Equations, Analytical Geometry (Plane and Solid), Statics including Attractions, Dynamics of a Particle, Rigid Dynamics, Hydrodynamics, the Mathematical Theory of Electricity, and Magnetism.

Political Economy and Economic History.—Candidates will be expected to possess a knowledge of economic theory as treated in the larger text books, also a knowledge of the existing economic conditions and of statistical methods as applied to economic inquiries, together with a general knowledge of the history of industry, land tenure and economic legislation in the United Kingdom.

Logic and Mental Philosophy. (Ancient and Modern).—Logic will include both Deductive and Inductive Logic. Mental Philosophy will include Psychology and Metaphysics.

Political Science.—The Examination will not be confined to Analytical Jurisprudence, Early Institutions, and Theory of Legislation, but may embrace comparative Politics, the History of Political Theories, etc.

Candidates will be expected to show a knowledge of original authorities.

CIVIL SERVICE COMMISSION,
July 1903.

[*Copies of this paper may be obtained on application to the Secretary to the Government of India, Home Department.*]

CIVIL SERVICE OF INDIA.

OPEN COMPETITION OF 1904.

FORM TO BE FILLED UP BY CANDIDATES FOR EXAMINATION.

*** *The order for admission to the Examination will not be issued unless this Form, filled up by the Candidate himself, is received by the Secretary of the Civil Service Commission on or before the* 1st July, 1904.

Date ______________

SIR,

I beg to inform you that I wish to be a Candidate at the Examination for the Civil Service of India, which is appointed to commence in London on the 1st of August, 1904.

I hereby declare that I was born on the day of 18 , and that therefore I had attained the age of 21 years and had not attain the age of 23 years on the 1st of January, 1904; I also declare that I have no disease, constitutional affection, or bodily infirmity unfitting me, or likely to unfit me, for the Civil Service of India; and that I am of good moral character, and otherwise eligible under the Regulations; and I undertake that, if I am successful, I will conform, during my period of probation, to such rules respecting the conduct of Public Servants as have been laid down, or may hereafter be laid down, by the Secretary of State for India in Council.

This should be given on the form attached.

I send herewith a statement of the subject in which I desire to be examined.

Candidates who are not Natives of India should strike out this paragraph.

I also send herewith a Certificate of my Birth issued in accordance with the rule respecting Natives of India printed in paragraph III below.

Candidates not born within the British Dominions should state this fact in a separate letter.

I have also to state, with referrence to Section 2, Clause (i) of the Regulations, that I am a natural-born subject of His Majesty.

* If you have never been examined, insert here the word "never."

† If you have been examined, give the date, &c., of the *last* occasion.

I beg further to add that I have* ______ been examined under the directions of the Civil Service Commissioners in the year 1______ † as a Candidate for the situation of ______________

I am, SIR,

Your obedient Servant,

Name in full ______________

‡ If a London address, state postal district; if a country, state the post town.

Address to which it is desired that the Order for Examination should be sent.‡

____

Date ______________

To the Secretary,

Civil Service Commission.

Certificates of age (except as mentioned above), health, and character, should not be supplied until after the result of the Examination has been declared.

N.B.—*Attention is drawn to the annexed Form, which must be filled up by every Candidate.*

This application form relates only to the competition for the Civil Service of India, and does not entitle a candidate to compete also for the Home or Colonial Civil Service.

EVIDENCE OF AGE TO BE REQUIRED FROM CANDIDATES FOR THE CIVIL SERVICE OF INDIA.

I. Every Candidate born in the United Kingdom should be prepared to produce, when required, a Certificate from the Registrar-General of Births, Marriages, and Deaths, or from one of his Provincial Officers. This Certificate may be obtained from the Registrar-General in London, Dublin or Edinburgh, or from the Superintendent Registrar of the District in which the birth took place.

II. A Candidate born of European parents in India should be prepared to produce, when required, a Certificate of Baptism from the district in which he was baptised. If this does not also mention the date of birth, it should be accompanied by a statutory declaration by one of the Candidate's parents, stating the date and place of birth. When such certificates are not in the possession of the Candidates an Extract from the Registers kept at the India Office will probably be obtainable.

III. A Candidate who is a Native of India must, *before he can be admitted to the Competition,* produce a certificate of age and nationality issued under Notification of the Government of India, No. 2252, dated 21st August, 1888, as amended by Notification No. 404, dated 19th May, 1898, and signed, should he be a resident in British India, by the Secretary to Government of the Province, or the Commissioner of the Division within which his family resides, or should he reside in a Native State, by the highest Political Officer accredited to the State in which his family resides. *No other Certificates will be accepted for this Competition.*

Except as noted in paragraphs II and III, every Candidate who proves to be successful is expected to produce a Certificate of *Birth.* The Civil Service Commissioners will not in ordinary cases accept a certificate of Baptism, or other testimony, unless they are first satisfied that a Certificate of Birth cannot be procured.

Official Certificates of Birth may generally be obtained as follows :—

(a) For persons born in England or Wales.—From the Registrar-General, Somerset House, London, or from the Superintendent Registrar of the district which the birth took place.

(b) For persons born in Scotland.—From the General Register Office, Edinburgh ; or from the Registrar of the parish or district in which the birth took place.

(c) For persons born in Ireland.—From the General Register Office, Dublin ; or from the Superintendent Registrar of the district in which the birth took place.

(d) For persons of English, Scottish, or Irish parentage born on board British ships.—From the General Register Office, London, Edinburgh, or Dublin according to parentage.

(e) For persons born in India of European parents.—From the Director of Funds, India Office, London, S. W. [These are Certificates of *baptism,* but they usually furnish the date of birth, and are then accepted as Certificates of *birth.*]

Any Candidate who cannot produce a Certificate of Birth from one of the authorities named should, if possible, procure a Certificate of Baptism, and should then apply to the Secretary, Civil Service Commission, for further instructions.

CIVIL SERVICE OF INDIA.

OPEN COMPETITION OF 1904.

SELECTION OF SUBJECTS TO BE FILLED UP AND RETURNED WITH THE FORM OF APPLICATION.

**** *Place your Initials against the Subjects which you select, and sign your name in the place indicated on the next page.*

In addition to the Written Examination there will be an Oral Examination in each of the undermentioned subjects marked thus†, and a Practical Examination in each of the undermentioned subjects marked thus‡.

INITIALS.	
....	English Composition.
....	Sanskrit Language and Literature.
....	Arabic Language and Literature.
....	Greek Language and Literature.

....	Latin Language and Literature.
....	English Language and Literature.
....	† French Language and Literature.
....	† German Language and Literature.
....	Mathematics (pure and applied).
....	Advanced Mathematical Subjects (pure and applied).
	Natural Science, *viz.*:
....	‡ Chemistry.
....	‡ Physics.
....	‡ Geology.
....	‡ Botany.
....	‡ Zoology.
....	‡ Animal Physiology.
....	Greek History.
....	Roman History.
....	English History.
....	General Modern History.
	Period ______
....	Logic and Mental Philosophy.
....	Moral Philosophy.
....	Political Economy and Economic History.
....	Political Science.
....	Roman Law.
....	English Law.

In addition to the Written Examination there will be an Oral Examination in each of the subjects marked thus †, and a Practical Examination in each of the subjects marked thus ‡.

The Oral Examination in Modern Languages being intended as colloquial *tests, no marks will be given at them to Candidates who are not able to converse.*

Any Candidate who wishes to decline *the Oral Examination or the Practical Examination in any of the subjects selected by him, should state this in the blank space below—*

Signature ________________

Date ________________

To the Secretary,

Civil Service Commission,

Burlington Gardens,

London, W.

[*Copies of this paper may be obtained on application to the Secretary to the Government of India, Home Department.*]

I. C. S.
1904.

NOTE.

If Open Competitive Examinations for the following Services, viz.:

Eastern Cadetships in the Colonial Service ;

Clerkships (Class I.) in the Home Civil Service ;

should be held in 1904 concurrently with the Open Competitive Examination for the Civil Service of India, candidates duly eligible in respect of age will be admitted to compete for any two or all three of these Services, subject to the following conditions :

(1) That they fill up and return to the Secretary, Civil Service Commission, an application on *each* of the prescribed forms, within the time limited by the respective regulations :‡ (*Note.—A separate form of application is required for each of the three services.)*

(2) That it is distinctly understood that every successful candidate who may have been admitted to compete for either the India or Colonial Service as well as for the Home Service, will be called upon to declare, immediately after the announcement of the result of the competitions, whether he prefers his name to remain on the list of candidates for the India or Colonial Service or on the list of candidates for Clerkships in the Home Civil Service, and that the name of any candidate who fails to declare his choicy when called upon to do so will be removed from the list of candidates for Clerkships in the Home Civil Service :

(3) That it is distinctly understood that every successful candidate who may have been admitted to compete for both the India and Colonial Services will be called upon to declare, after the announcement of the result of the competitions, whether he prefers his name to remain on the list of candidates for the Civil Service of India or on the list of candidates for Eastern Cadetships in the Colonial Service, and that the name of any candidate who fails to declare his choice when called upon to do so will be removed from the list of candidates for Eastern Cadetships.

(4) That all declarations of choice are irrevocable.

Candidates admitted to compete for all three or any two of these classes of appointments will be required to pay a consolidated fee of £ 6.

CIVIL SERVICE COMMISSION,

June 1903.

H. H. RISLEY,

Offg. Secretary to the Government of India.

‡ Candidates who may desire to enter the competitions for the Home and Colonial Services should apply about Easter next to the Secretary, Civil Service Commission, Burlington Gardens, London, W., for the prescribed froms of application.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

AGRICULTURE.

Simla, the 10th August, 1903.

No. 1420—103-2.—The following extract from the *Ceylon Government Gazette* No. 5932 of July 17th, 1903, is republished for general information:

Regulations under Section 3 of the Insect Pest and Quarantine Ordinance, No. 5 of 1901.

1. From and after August 16, 1903, the importation of pepper plants into Ceylon from any part of India is prohibited.

2. The Principal Collector of Customs shall destroy all pepper plants imported from any part of India and landed in any part of Ceylon after the said date, and no compensation shall be payable by reason of such destruction.

3. The foregoing regulations shall not be taken to prohibit the importation from India into Ceylon of the dried seed of the pepper plant for commercial use.

J. O. MILLER,

Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATION.

ACCOUNTS.

LOANS, &C.

No. 4880-A.

Simla, the 11th August, 1903.

RESOLUTION—By the Government of India, Finance and Commerce Department.

The Government of India consider it desirable to meet the requirements of small investors in the London market who may wish to purchase Government of India rupee paper in lots of the value of £10. The issue of Promissory Notes for any multiple of Rs. 100 is already provided for under the Resolution in this Department, No. 716, dated 22nd December 1885, but issues of amounts equivalent to the smaller unit of £10 are not at present authorised. The Governor-General in Council is now pleased to authorise the Public Debt Office to issue, in cases of renewal, consolidation, or sub-division, Promissory Notes for Rs. 150 each.

Ordered that this Resolution be communicated to the Comptroller and Auditor General for information and the issue of further necessary orders, and that the Resolution be published in the *Gazette of India* for general information.

E. N. BAKER,

Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 14th August, 1903.

LONDON GAZETTE.

No. 832.—The following extract is published for general information :

"*London Gazette,*" *dated the 21st July 1903, pages 4589, 4591, 4592, 4593 and 4594.*

* * * * * * * *

INDIA OFFICE;

21st July, 1903.

The King has approved of the following promotions among officers of the Indian Army and Indian Medical Service made by the Government of India :

Captains to be Majors.

* * * * * * * *

Dated 9th May 1903.

* * * * * * * *

Philip Sykes Murphy Burlton.

* * * * * * *

Charles Brooke Rawlinson.

* * * * * * * *

The King has also approved of the restoration to the Effective List of the under-mentioned officer :

Captain George Yeates Cobb Hunter, Indian Medical Service, Bengal Establishment, with effect from 6th February 1903.

* * * * * * * *

ERRATUM.

The promotion of Veterinary-Captains Frank Joslen, Harrie Malcolm Maxwell, Henry Thomas Pease and George Henry Evans to the rank of Veterinary-Major, and of Veterinary-Lieutenants John Farmar, Alfred Smith, Frank Shelson Headon Baldrey and George Kemp Walker to the rank of Veterinary-Captain, notified in the *London Gazette* of 30th June, has effect from 20th March 1902, and not as therein stated.

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 12th August, 1903.

No. 291.—The Governor General in Council is pleased to order the following promotions and reversion to, and in the classes of, Chief and Superintending Engineers, attached to the Irrigation, Roads and Buildings, with effect from the dates specified :

Names.	From.	To	Nature of promotion.	With effect from
				1903.
Jacob, L. M. ...	Superintending Engineer, 1st Class, sub *pro tem.*	Superintending Engineer, 1st Class.	Permanent ...	22nd June.
Murray, F. C. ...	Superintending Engineer, 1st Class, *temporary rank.*	Superintending Engineer, 1st Class.	Sub. *pro tem.*	22nd June.
* *	* *	* *	*	* *
Kennedy, R. G. ...	Chief Engineer, 3rd Class, *temporary rank.*	Chief Engineer, 2nd Class.	Temporary ...	17th July.
Abbott, Lieutenant Colonel H. E. S., D. S. O., R. E.	Officiating Chief Engineer.	Chief Engineer, 3rd Class.	Temporary ...	17th July.
* *	* *	* *	*	* *
Granville, H. C. ...	Officiating Superintending Engineer.	Superintending Engineer, 3rd Class.	Temporary ...	17th July.

SIDNEY PRESTON,

Secretary to the Government of India.

Punjab Government Press, Lahore—21-8-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, SEPTEMBER 3, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED AUGUST 29, 1903.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

Simla, the 27th August, 1903.

No. 20.—The following Statute is published for general information :—

CONTRACTS (INDIA OFFICE) ACT, 1903.

[3 EDWARD VII, CHAPTER 11.]

An Act to remove Doubts as to the Mode of Execution of certain Contracts entered into on behalf of the Secretary of State for India in Council.

[21ST JULY, 1903.]

WHEREAS doubts have arisen as to the proper mode of the execution of certain contracts on behalf of the Secretary of State in Council, and it is expedient that such doubts should be removed :

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Definition.

1. The expression "the Secretary of State" means the Secretary of State in Council of India.

Mode of executing contracts.

2. Every contract for or relating to the manufacture, sale, purchase, or supply of goods, or for or relating to affreightment or the carriage of goods, or to insurance, may be entered into, made, and signed on behalf of the Secretary of State by any person upon the permanent establishment of the Secretary of State, duly empowered by the Secretary of State in this behalf, subject to such rules and restrictions as the Secretary of State may from time to time prescribe. And contracts so entered into, made, and signed shall be as valid and effectual as if entered into as prescribed by the fifth section of the Government of India Act, 1859. 22 & 23 Vict., c. 41.

3. Particulars of all contracts so entered into as aforesaid shall be laid before the Secretary of State in such manner and form and within such times as the Secretary of State may from time to time prescribe.

Contracts to be laid before the Secretary of State.

Short title.

4. This Act may be cited as the Contracts (India Office) Act, 1903.

J. M. MACPHERSON,

Secretary to the Government of India.

HOME DEPARTMENT.

NOTIFICATION.

JUDICIAL.

Simla, the 24th August, 1903.

No. 1524.—Major E. S. Cooper, Indian Army, Officiating Cantonment Magistrate, was granted leave in India on medical certificate from the 2nd April 1903 to the 7th July 1903.

H. H. RISLEY,

Offg. Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATIONS.

Simla, the 24th August, 1903.

ARCHÆOLOGY AND EPIGRAPHY.

No. 2989—65-3.—Dr. J. Ph. Vogel, Superintendent, Archæological Survey, Punjab and the United Provinces, is granted privilege leave for three months, under Articles 242(*a*), 246 and 260 of the Civil Service Regulations, with effect from the 29th October 1903, or the subsequent date on which he may avail himself of it.

FORESTS.

The 28th August, 1903.

No. 1039.—75-9-*F*.—Mr. F. B. Dickinson, Conservator of Forests, 1st Grade, on return from the privilege leave granted to him in the notification of this Department, No. 465-F., dated the 13th April 1903, having resumed charge of the Central Circle, United Provinces, from Mr. T. J. Campbell, the following reversions took effect from the 20th July 1903 :

* * * * * * * *

(*ii*) Mr. F. Beadon Bryant, Officiating Conservator, 1st Grade, Punjab, to Conservator, 2nd Grade.

* * * * * * * *

J. O. MILLER,

Secretary to the Government of India.

FOREIGN DEPARTMENT.

NOTIFICATION.

Simla, the 26th August, 1903.

No. 1351-G.—Mr. D. deS. Bray, of the Indian Civil Service, an Assistant Commissioner of the 3rd Grade in the Punjab, is appointed to officiate as a Political Assistant of the 2nd class, and is posted as an Assistant to the Agent to the Governor-General in Baluchistan, with effect from the date of assuming charge.

L. W. DANE,

Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 28th August, 1903.

VOLUNTEER CORPS.

MEDALS AND DECORATIONS.

No. 902.—The undermentioned members of the Indian Volunteer Force are granted the Volunteer long service medal :

Punjab Light Horse.

Sergeant F. W. Hopkins.

North-Western Railway Volunteer Rifles.

Sergeant-Major C. Holloway.
Sergeant C. Jahans.
Sergeant W. Moreland.
Sergeant J. B. Rabbitt.
Lance-Sergeant A. S. Anderson.
Lance-Sergeant C. Burtles.
Lance-Sergeant H. J. Miller.
Lance-Corporal R. O. H. Anderson.
Volunteer E. M. Britain.
Volunteer F. Butcher.
Volunteer W. A. Canning.
Volunteer J. D' Jesus.
Volunteer F. De'Rozario.
Volunteer J. R. Fernandes.
Volunteer F. Hallam.
Volunteer E. S. Jabans.
Volunteer V. Lobo.
Volunteer D. Morris.
Volunteer O. J. Teal.
Volunteer R. Samuels.

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATIONS.

Simla, the 27th August, 1903.

No. 314.—Mr. L. M. Jacob, Superintending Engineer, 1st Class, Punjab, is appointed Chief Engineer and Secretary to the Government of Burma, in succession to Mr. H. Groves, with the rank of Chief Engineer, 3rd Class, sub. *pro tem.*

No 315.—Mr. J. J. Hatten, Superintending Engineer, 2nd Class, temporary rank, is promoted to Superintending Engineer, 2nd Class, sub. *pro tem.*, with effect from the 22nd June 1903.

SIDNEY PRESTON,
Secretary to the Government of India.

FROM THE SUPPLEMENT TO THE "GAZETTE OF INDIA," DATED AUGUST 29, 1903.

QUESTION OF THE FUTURE ORGANIZATION OF THE CANTONMENT MAGISTRATES' DEPARTMENT.

GOVERNMENT OF INDIA, HOME DEPARTMENT.

JUDICIAL.

NOS. 1507—1521.

Simla, the 24th August, 1903.

RESOLUTION.

THE Government of India have recently considered, in communication with the Secretary of State, the question of the future organization of the Cantonment Magistrates' Department. The difficulty of obtaining a regular supply of efficient Cantonment Magistrates does not now come before the Government of India for the first time. Attempts have been made to remove it by various systems of recruitment, all of which have proved more or less unsatisfactory. Before the year 1864 Military Officers had been employed as Magistrates and Superintendents of Abkari and Bazars in Cantonments; but in that year the passing of Act XXII (an Act to make provision for the administration of Military Cantonments) afforded new reasons for requiring from such officers special qualifications for their civil duties. It was accordingly ruled that they should pass the examination prescribed for officers entering the Staff Corps through the Civil Department, and that they should be regarded as officers in civil employ, liable to the departmental examination for civil officers, and eligible for general promotion in the Civil Department. Cantonment Magistracies were then divided into two grades, on a consolidated pay of Rs. 1,000 and Rs. 700 a month respectively. The tenure of the post was unlimited, and the holder vacated it on being admitted to Colonel's allowances or on attaining the age of 55 years. This scheme failed to afford an inducement to officers to enter the Department. By the year 1875 no appointments had been made in the ordinary civil line from among Cantonment Magistrates in the North-Western Provinces and the Punjab, and only one such appointment had been made in Bengal. In consequence of a representation made by the Commander-in-Chief in 1886, that the system was working badly mainly because unsuitable officers had been appointed as Cantonment Magistrates and could not be removed, the Government of India, in August 1887, ordered, as a provisional arrangement, that the tenure of Cantonment Magistracies should in future be limited to five years, with a possible extension to seven years. The consolidated rates of pay fixed in 1864, which would have been needlessly high for officers appointed for this limited period, were revised as follows :—

Rank of officer.	*Initial pay.*	*On passing the Higher Standard Examination.*
	Rs.	Rs.
Subaltern ...	... 600	700
Higher rank ...	... 700	800

To meet the objection arising from the periodical admission to civil employ of untrained Military Officers, who would be engaged in important magisterial work, candidates for the Cantonment Magistrates' Department were required to pass a qualifying examination in the Civil and Criminal Procedure Codes, the Indian Penal Code, and other laws commonly administered by Cantonment Magistrates. These orders had not been in force for more than three years when Lord Roberts, who was then Commander-in-Chief in India, took strong exception to the new arrangement. The main objection urged from a military point of view was that officers lost in efficiency through absence from military duty, and, after having been for five years in an independent civil position, were disinclined for such duty on their return. From the civil point of view it was represented that an officer had barely time to become an efficient Cantonment Magistrate before he had to

make way for an inexperienced successor. It was then decided to abandon the system tentatively introduced in 1887 and to revert to the one previously existing, with the important difference that, whereas the highest pay (Rs. 1,000) under the earlier system had proved insufficient to induce competent officers to adopt the career permanently, the pay of the higher grades was to be so regulated as to make the appointments sufficiently attractive for this purpose. With the same object it was resolved to reserve the appointments in the Judge Advocate-General's Department preferentially (though not exclusively) for qualified Cantonment Magistrates. It was also arranged that officers appointed as Cantonment Magistrates should be seconded in the Military Department after a year, and should, after five years, either return to their regiments or be struck off the strength. The following allowances were provided in addition to Staff Corps pay of rank :

	Rs.
On first appointment	200
On passing the Departmental Lower Standard Examination ...	250
On passing the Departmental Higher Standard Examination ...	300
After five years' substantive service as Cantonment Magistrate ...	400
After ten years' substantive service as Cantonment Magistrate ...	500

2. These conditions of service, which were approved by Lord Kimberley in October 1892, have remained in force up to the present day. Experience has shown that they do not ordinarily secure a suitable stamp of officer for the Department, and great difficulty has been experienced in recruiting, especially in the case of leave vacancies. The system is defective in failing to provide a stimulus to effort and a check upon inertness, in the shape of promotion by selection. Good work is done in individual cases, but speaking generally the Government of India observe a tendency among officers to assume that their position is assured, and that further advancement is only a matter of length of service, with the inevitable result that the energies of the Department as a whole are impaired. The reluctance of Military Officers to enter the Department under existing conditions has made it almost impossible to replace an officer taking leave except by another simultaneously returning. In some cases it has been possible either to depute a civil or a regimental officer to perform the Cantonment Magistrate's duties in addition to his own, or even to leave the Cantonment Magistracy unfilled for a time. Such arrangements are not satisfactory, but, in many recent cases, even their adoption was impossible, and the leave applied for had to be postponed or refused altogether. Further, the Government of India have received a representation from the Military authorities that the executive duties of Cantonment Magistrates are either neglected or inefficiently performed, owing to the appointment of incompetent officers.

3. In these circumstances the Government of India determined to refer the whole question of the constitution of the Cantonment Magistrates' Department and the causes of its unpopularity and inefficiency to a competent Committee, consisting of Mr. J. P. Hewett, then Home Secretary, Major General G. Henry, then Quartermaster-General in India, and Lieutenant-Colonel H. B. Thornhill, then Cantonment Magistrate of Bareilly. The Committee considered that, in order to attract officers with the necessary qualifications to the Cantonment Magistrates' Department, it was essential that the prospects of the Department should be improved. In order to effect the required improvement, they recommended—

(*a*) the addition of two new grades of selected Cantonment Magistrates, *viz.*:

	Officers.	*Staff pay.*
		Rs.
1st grade	3	700 a month,
2nd grade	6	600 a month;

(*b*) the creation of a reserve consisting of two officers;

(*c*) the creation of five new appointments of Assistant Cantonment Magistrate at Ambala, Meerut, Mhow, Poona-Kirkee, and Quetta;

(*d*) the creation of two new appointments of Cantonment Magistrate at Nowshera and Jubbulpore; and

(*e*) the appointment of an Inspecting Officer of Cantonments on a staff pay of Rs. 1,000 a month.

4. These recommendations have been accepted by the Secretary of State, except that the appointment of an Inspecting Officer of Cantonments has been sanctioned, in the first instance, for a period of five years; and, in promulgating them for general information, the Government of India invite attention to the following remarks and instructions regarding the several matters referred to by the Committee.

5. The Government of India trust that the improved prospects which these arrangements offer will attract suitable officers to the Department. In future promotion to the two highest grades, which carry a staff pay of Rs. 700 and Rs. 600 a month respectively, will be made entirely by selection, vacancies, whether permanent or temporary, being filled as a rule by officers who have completed ten years' departmental service. Cantonment Magistrates of ten years' service will ordinarily, unless adversely reported on, be eligible for a staff pay of Rs. 500 a month. Recommendations for the grant of this rate of pay, as well as for promotion to the grades of Rs. 600 and Rs. 700, permanent or temporary, will be made by the Quartermaster-General in India (who receives the confidential reports regarding the administrative capacity and judicial work of Cantonment Magistrates) to the Government of India, by whom they will be carefully considered, first in the Military Department and then in the Home Department. The Government of India will examine separately, in consultation with the Quartermaster-General in India and Local Governments, the claims of officers to promotion to the two highest grades, and of officiating officers to confirmation in the Department in connection with the new appointments which have been sanctioned.

6. The object of the creation of a reserve of officers is to provide for leave vacancies; but it is obvious that no reserve of reasonable strength will serve this purpose if an unlimited number of officers are simultaneously allowed to avail themselves of leave. The Government of India have accordingly decided that the number of Cantonment Magistrates who may be on furlough in future shall not exceed 20 per cent. of the cadre posts and that all applications for ordinary furlough in excess of this proportion must be refused. To facilitate the making of the necessary arrangements for the grant of leave, officers should be required to intimate to the Local Government at a date not later than the 1st March their intention to apply for leave during the ensuing hot weather, and Local Governments should give demi-official intimation of the fact to the Government of India. Such intimation is indeed already required by existing orders, but these are not always complied with: and the Government of India desire it to be known that omission to give notice as directed will, unless satisfactory explanation of such omission accompanies the leave application, in future prejudice the officer's chances of obtaining leave.

7. Officers appointed to be Assistant Cantonment Magistrates will receive staff pay as if they were Cantonment Magistrates up to a maximum of Rs 300 a month, and their services as Assistants will count towards their staff pay when confirmed as Cantonment Magistrates. Regarding appointments to the newly sanctioned Cantonment Magistracies at Jubbulpore and Nowshera, and to the five new Assistant Cantonment Magistracies further orders will be issued subsequently.

8. The appointment of an Inspecting Officer of Cantonments has been decided on, with a view to the improvement of the standards of executive and sanitary work in Cantonments throughout India. The cost of the appointment will be debited to the Military estimates, and the officer will be under the orders of the Commander-in-Chief and attached to the Department of the Quartermaster-General in India, being graded as a Deputy Quartermaster-General; but he will be selected from among the senior Cantonment Magistrates in the Department. The Inspecting Officer will spend the greater part of the year on tour, examining the working of Cantonments, co-ordinating results so that the experience gained in one place may be utilized elsewhere, and advising the Military authorities generally as an expert in matters of Cantonment administration. He will also be expected to acquaint himself with the financial position of Cantonments generally and to advise how that position may be improved. It must be clearly understood, however, that he will inspect and report only on the executive work of Cantonment Magistrates, and that his concern with their judicial work will be restricted entirely to the question of how far its nature or amount may interfere with their other duties.

Government of Madras.
" " Bombay.
" " Bengal.
" " the United Provinces.
" " the Punjab.
" " Burma.
Chief Commissioner of the Central Provinces.
" " N.-W. Frontier Province.
Agent to the Governor-General, Baluchistan.
" " " " Central India.
Chief Commissioner, Ajmer-Merwara.

[* and further necessary action.]

ORDER.—Ordered that a copy of this Resolution be forwarded to the Local Governments and Administrations marginally named, for information and guidance; and to the Finance and Commerce* and Military Departments, and the Quartermaster-General in India,* for information.

Ordered, also, that the Resolution be published in the Supplement to the *Gazette of India.*

H. H. RISLEY,

Offg. Secretary to the Government of India.

Punjab Government Press, Lahore—3 9-03—620.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, SEPTEMBER 10, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED SEPTEMBER 5, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Simla, the 4th September, 1903.

No. 3058.—In exercise of the power conferred by section 17 of the Indian Arms Act, 1878 (XI of 1878), the Governor-General in Council is pleased to make the following addition at the end of the fourth sentence of rule 11 of paragraph VI of the rules published with the notification of the Government of India in the Home Department, No. 518, dated the 6th March 1879, as amended by subsequent notifications :

" or a license to export ammunition granted under the third proviso to the second paragraph of the Resolution of the Government of India in the Foreign Department, No. 3001-I.A., dated the 27th June 1903."

SANITARY.

PLAGUE.

The 5th September 1903.

No 1356.—Whereas the Governor-General in Council is satisfied that there is a danger of an outbreak of dangerous epidemic disease at Ajmer in the Ajmer District, if pilgrims or other persons from the Bombay Presidency (including the Baroda State), the districts of Lucknow, Fatehgarh and Agra of the United Provinces, the districts of Rawalpindi and Ambala in the Punjab, the districts of Nimar, Hoshangabad and Nagpur in the Central Provinces, the Hyderabad State, the districts of Akola, Buldana, Basim and Amraoti in Berar and Central India are permitted to assemble at that place on the occasion of the ensuing Urs Khwaja Sahib fair :

In exercise of the power conferred by section 2, sub-section (1), of the Epidemic Diseases Act, 1897 (III of 1897), the Governor-General in Council is pleased to direct that no tickets to travel by railway to the stations of Ajmer, Tabiji, Saradhna, Mangaliawas, Ma[illegible]r, Ladpura, Akhri, Kharwa, Beawar, Sendra, Nasirabad and Bandanwara on the Rajputana-Malwa Railway shall be sold from the date of this notification to the 1st October 1903 (both days inclusive) within the Bombay Presidency (including the Baroda State), the districts of Lucknow, Fatehgarh and Agra of the United Provinces, the districts of Rawalpindi and Ambala in the Punjab, the districts of Nimar, Hoshangabad and Nagpur in the Central Provinces, the Hyderabad State, the districts of Akola, Buldana, Basim and Amraoti in Berar and Central India to any pilgrim or other person intending or believed to be intending to proceed on pilgrimage to the Urs Khwaja Sahib fair.

ECCLESIASTICAL.

The 3rd September 1903.

No. 393.—The Reverend C. Mayhew, a Junior Chaplain on the Bengal (Lahore) Establishment, is permitted to retire from the service, with effect from the 29th October 1903.

H. H. RISLEY,
Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 4th September, 1903.

PROMOTIONS.

INDIAN ARMY.

No. 913.—The following promotions are made, subject to His Majesty's approval:

Captains to be Majors.

29th August 1903.

* * * * * * * *

Harold Stephen Fox-Strangways.

* * * * * * * *

Hector Travers Dennys.

* * * * * * * *

Cyril Powney Thompson.

* * * * * * * *

Arthur Elliott Barton.

* * * * * * * *

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 1st September, 1903.

No. 321.—The Right Honourable the Secretary of State for India has, in His Lordship's despatch No. 31 P. W., dated 7th August 1903, sanctioned the classification of the Indus Inundation Canals in the Punjab at present classed under 43—Minor Works and Navigation as a Productive Public Works, with effect from the 1st April 1903, and the execution, from borrowed funds, of the Talai Project in the same Province :—

	Amount of estimate for Talai project, including previous expenditure, sanctioned by the Secretary of State.	
	Direct.	Indirect.
	Rs.	Rs.
Talai project	16,86,316	41,416

SIDNEY PRESTON,
Secretary to the Government of India.

Punjab Government Press, Lahore—10-9-03—620.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, SEPTEMBER 17, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED SEPTEMBER 12, 1903.

MILITARY SECRETARY'S OFFICE.

NOTIFICATION.

Simla, the 11th September, 1903.

No. 642 *M.*—His Excellency the Viceroy and Governor General will leave Simla on Friday, the 25th September 1903, visit Kumaon and Garhwal, and return to Simla on or about the 14th October 1903.

All covers intended to reach His Excellency the Viceroy and Governor General during His Excellency's tour should be addressed " His Excellency the Viceroy's Camp " without the addition of any post town.

The party accompanying His Excellency on tour is as follows :

Lieutenant-Colonel the Hon'ble E. Baring, Military Secretary.

Captain R. G. T. Baker-Carr, A.D.C.

Captain V. A. S. Keighley, A.D.C.

All communications of a mere routine nature should be sent, as usual, to the Head quarters of the several departments.

By Command,

EVERARD BARING, LIEUT.-COL.,

Military Secretary to the Viceroy.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Simla, the 11th September, 1903.

No. 3119.—It is hereby notified for general information that the Agent General in India for the British Protectorates in Africa under the administration of the Foreign Office will take rank in Article 73 of the Warrant of Precedence for India, published with the Notification of the Government of India in the Home Department, No. 328, dated the 19th February 1899.

JUDICIAL.

The 11th September, 1903.

No. 1630.—In continuation of the Notification of the Government of India in the Home Department No. 817, dated the 23rd May 1902, publishing revised rules as to cases in which persons subject to military law shall be tried by a court to which the Code of Criminal Procedure, 1898, applies, or by a court-martial, and in exercise of the powers referred to therein, the Governor General in Council is pleased to direct that for the word "fifteen" in rules (2) and (3) of the said rules the word "five" shall be substituted.

H. H. RISLEY,

Offg. Secretary to the Government of India.

FOREIGN DEPARTMENT.

NOTIFICATION.

Simla, the 11th September, 1903.

No 2146 *E B.*—With reference to Notification No. 1808 E.B., dared the 7th September, 1900, the following Proclamation, which was published in the supplement to the *London Gazette*, dated the 7th August, 1903, is republished for general information :

By the KING.

A PROCLAMATION.

EDWARD, R. & I.

Whereas by "The Exportation of Arms Act, 1900," section 1, it is enacted that it shall be lawful for His Majesty by Proclamation to prohibit the exportation of all or any of the following articles, namely : Arms, ammunition, military and naval stores, and any article which His Majesty shall judge capable of being converted into or made useful in increasing the quantity of arms, ammunition, or military or naval stores to any country or place therein named, whenever His Majesty shall judge such prohibitions to be expedient in order to prevent such arms, ammunition, military or naval stores being used against His Majesty's subjects or forces, or against any forces engaged or which may be engaged in military or naval operations in co-operation with His Majesty's forces.

Whereas a Proclamation was issued dated August 7th, one thousand nine hundred, prohibiting the exportation to China of arms and ammunition from and after the date aforesaid.

And whereas We, by and with the advice of Our Privy Council, judge it no longer expedient to prohibit the exportation to China of arms and ammunition.

Now, We, by and with the advice aforesaid, hereby repeal the said Proclamation prohibiting the exportation to China of arms and ammunition from and after the date hereof.

Given at Our Court at *Buckingham Palace*, this tenth day of *August*, in the year of our Lord one thousand nine hundred and three, and in the third year of Our reign.

GOD SAVE THE KING.

By order of the Governor-General in Council,

L. W. DANE,

Secretary to the Government of India.

THE HONOURABLE THE AGENT TO THE GOVERNOR GENERAL AND CHIEF COMMISSIONER, NORTH-WEST FRONTIER PROVINCE.

NOTIFICATION.

EXAMINATION.

Peshawar, the 3rd September, 1903.

No. 186.—The next half-yearly examination in the Pushtu language by the High Standard will be held at Peshawar, Dera Ismail Khan, Gilgit, Chitral, Quetta, and Mian Mir on the 26th October 1903 and following day.

The examination for Tahsildars, Naib-Tahsildars, and subordinate officers of the Police and Irrigation Departments will be held at Peshawar and Dera Ismail Khan on the 28th October 1903.

By order,

F. W. JOHNSTON,

Offg. Secretary to the Chief Commissioner, N.-W. F. Province.

FROM THE SUPPLEMENT TO THE "GAZETTE OF INDIA," DATED SEPTEMBER 12, 1903.

No. 1213 C. W.—I.

GOVERNMENT OF INDIA.

PUBLIC WORKS DEPARTMENT.

CIVIL WORKS.

IRRIGATION.

Simla, the 10th September, 1903.

Review of Irrigation in India in 1901-02.

Read—

Note by R. N Burn, Esq., Accountant General, Public Works Department, upon the accounts of Revenue and Expenditure of Irrigation Works in India for 1901-02.

Provincial Revenue and Administration Reports of Irrigation Works for triennium ending 1901-02.

Irrigation Works are divided into two main classes—Major and Minor Works,—the former being sub-divided into (I) Productive, and (II) Protective Works. Capital and Revenue Accounts are kept for all Major Works, and the revenue due to them, whether directly in the form of water-rates and miscellaneous receipts, or, indirectly, on account of enhancements of land revenue due to irrigation, is shewn in the Annual Finance Accounts.

A.—MAJOR WORKS.

I.—*Productive Works.*

2. The most important irrigation works in India are those classed as Productive Works, or works the capital cost of which has been wholly or mainly provided from loan funds in the expectation that they would prove directly remunerative, and that the net revenue derived from them would fully cover all charges for interest within a reasonable time after their completion. This expectation is never likely to be realized in respect of any of the four works constructed in Bengal, of the seven in Bombay (Deccan and Gujrat) and of the Karnool Canal and Barur Tank in Madras. The capital outlay recorded against these thirteen works to the end of the year under review amounted to Rs. 9,75,35,410 on which the net revenue realized during the year yielded a return of 0·90 per cent. compared with 0·81 and 0·80, the averages of the part two triennia. The interest charges to the end of the year exceeded the net revenue by Rs. 8,95,93,822, the excess for the year being Rs. 29,34,026. The area irrigated by these works during the year was 942,108 acres.

3. These unfavourable financial results are, however, more than balanced by those attained on the 25 remaining productive works now in operation, the net revenue on which during the year was equivalent to a return of 9·13 per cent. on the capital outlay. The general financial results of all the works of this class are shown separately by provinces in the following statement. The totals are brought into comparison with those of the two previous years:

Financial results of Productive Works in operation.

Province.	Number of works.	Area irrigated.	Capital outlay to end of 1901-02.	Net revenue in 1901-02.	Percentage of net revenue on capital outlay.
Irrigation.		Acres.	Rs.	Rs.	
Punjab	7	4,111,246	9,89,04,691	1,02,86,403	10·40
United Provinces of Agra and Oudh ...	5	2,452,743	8,35,87,740	48,82,331	5·84
Madras	8	2,896,307	6,89,28,596	65,84,594	9·55
Sind	7	968,830	2,14,64,51	12,70,756	5·92
Bombay	7	27,439	1,10,53,704	2,07,002	1·87
Bengal	3	841,126	6,17,00,915	5,31,364	0·86
Do.	1*	...	26,15,154	17,970	0·69
Total, Imperial ...	38	11,297,691	34,82,55,318	2,37,80,480	6·83
Native States, Punjab	...†	380,592	1,52,16,196	1,73,478	1·14
GRAND TOTAL, IMPERIAL AND NATIVE STATES—					
1901-02	38	11,678,283	36,34,71,514	2,39,53,958	6·59
1900-01	35	10,868,975	34,78,06,743	2,54,86,758	7·33
1899-1900	35	11,092,149	34,41,43,992	2,37,99,125	6·92

* Hijili Tidal Canal which is a purely navigation work.
† Part of the works in the Punjab.

The addition during the year under review, of the Jhelum Canal in the Punjab and the Dad Canal in Sind to the number of Productive Works in operation accounts for an abnormal increase in the capital outlay as compared with 1900-01.

The area irrigated has never been exceeded though the percentage return is less than those of previous years.

4. The enormous increase of area irrigated under the head of Productive Works is shown in the following table, where the areas for the year under consideration are compared with the averages of the last three triennia, *i. e.*, 1901-02 to 1893-94. Every province shows a marked increase with the exception of Bombay, which has made no progre The Punjab Native States are also stationary.

Productive Major Works.

Province.	AREA IRRIGATED.			
		AVERAGE OF TRIENNIUM.		
	During 1901-02	1899 1900 to 1901-02.	1896 97 to 1898 99.	1893 94 to 1895-96.
	Acrs.	Acres.	Acres.	Acres.
Punjab	4,111,246	4,012,579	3,305.215	1,897,495
United Provinces	2,452,743	2,308,149	2,389,290	1,409,952
Madras	2,896,307	2,805.299	2,627,747	2,438,460
Sind	968,830	912,802	690,834	565,750
Bombay	27,439	26,904	30,095	25,703
Bengal	841,126	761,478	739,620	548,603
Total, Imperial ...	11,297.691	10,827,211	9,782,801	6,885,969
Punjab Native States ...	380,592	385,930	424,290	213,754
Total ...	11,678,283	11,213,141	10,207 091	7,099,723

5. The averages of the different works in the Punjab are shown below :

Name of work.	AREA IRRIGATED.			
		AVERAGE OF TRIENNIUM.		
	During 1901-02.	1899-1900 to 1901-02.	1896 97 to 1898-99.	1893-94, to 1895-96.
	Acres.	Acres.	Acres.	Acres.
Western Jumna, Imperial	550,916	561,433	677.597	417,103
Sirhind, Imperial	728.908	793,312	862,445	403,031
Bari Doab	856,041	826,473	784,156	564,072
Chenab	1,748,129	1,643 959	752,661	303,232
Lower Sohag and Para	47,753	62,220	78,532	72 639
Sidhnai	114,132	103,392	139,823	137,4[illegible]7
Jhelum Canal	65,367	21,789	*Nil.*	*Nil.*
Total, Imperial ...	4,111,245	4,012,578	3,305,214	1,897,494
Sirhind (Native States)	341,553	341,062	367,140	170,844
Western Jumna (Native States)	39,039	44,867	57,149	42,910
Total ...	4,491,838	4.398,507	3,729,503	2,111,248

The Jhelum Canal, which was opened during the year, irrigated 65,367 acres. No revenue, however, was earned as the water was given free of charge. Excluding the Jhelum Canal, the net revenue of the productive works in the Punjab rose from Rs. 98,83,920 in 1900-01 to Rs. 1,03,08,279 in the year under review, or 11·52 per cent. on the capital outlay. The highest percentage attained was on the Sidhnai Canal, which earned a net revenue of 24·50 per cent. on the capital outlay against 8·70, 16·62 and 19·25 per cent., the averages of the past three triennia. The return on the capital outlay of the Chenab Canal was 18·88 per cent. compared with 14·13, 7·44 and 2·12 for the three triennia; this canal is still developing and the ultimate percentage of profit has not yet been reached. The great decrease in net revenue in the case of the Native States was due to shrinkage of the irrigated area in 1900-01 owing to favourable rainfall and to abnormal working expenses intimated by the Nabha State.

6. In the United Provinces of Agra and Oudh the averages of area irrigated are as below:

Name of work.	AREA IRRIGATED.			
	During 1901-02.	Average of Triennium.		
		1899-1900 to 1901-02.	1896-97 to 1898-99.	1893-94 to 1895-96.
	Acres.	Acres.	Acres.	Acres.
Ganges	1,056,803	1,030,836	966,286	589,230
Lower Ganges and Fatehpur Branch ...	786,161	732,136	871 130	474,625
Agra	260,727	238,444	244,442	162,963
Eastern Jumna	349,052	306,733	307.432	183,133
Total ...	2,452,743	2,308,149	2,389,290	1,409,951

The area irrigated by the Eastern Jumna Canal exceeded all its previous records. The net revenue, however, from these canals was less than that of 1900-01 by Rs. 15,27,459 and represented a return of 5·84 per cent. on the capital outlay. In the preceding five years the return was never less than 7 per cent. The decrease was due to the contracted area of irrigation in 1900-01, the realizations on account of which are included in the receipts of the year under review.

The relative percentages of profit compared with those of the past three triennia are given in the table below:

Name of work.	PERCENTAGE.			
	1901-02.	Average of Triennium.		
		1899 1900 to 1901-02.	1896-97 to 1898-99.	1893-94 to 1895-96.
Ganges Canal	8·35	10·26	9·84	6·43
Lower Ganges Canal	3·01	3·55	5·01	2·39
Agra Canal	4·01	5·52	6·06	3·05
Eastern Jumna	22·98	25·31	29·66	21·44

The Eastern Jumna Canal is the most remunerative in the United Provinces; the net revenue realized from this canal up to the end of 1901-02 has exceeded the interest charges by the large sum of 22·8 lakhs of rupees, while during a period of 37 years ending with 1901-02 the return on the capital outlay never fell to less than 17 per cent. and was over 31 per cent. in five years.

7. In Madras, comparing the year with the averages of the past three triennia, excepting the Periyar where the figures are for two triennia only, we have an increase for all works :

Name of work.	AREA IRRIGATED.			
		AVERAGE OF TRIENNIUM.		
	During 1901 02.	1899-1900 to 1901-02	1896-97 to 1898-99	1893-94 to 1895-96.
	Acres.	Acres.	Acres.	Acres
Srivaikuntam Anicut	44,161	43,655	41,518	37,702
Godavari	839,855	804,995	771,925	721 459
Kistna	629,580	606,311	523,094	504,643
Penner	160,726	153,048	148,378	146,673
Kurnool	68,532	69,302	61,065	32,622
Periyar	153,862	141,987	90,160	...
Barur Tank	5,371	5.354	4,5?7	4.344
Cauvery Delta	994,220	980,644	987,016	991,016
Total ...	2,896,307	2,805,296	2,627,741	2,438,459

The areas irrigated on the first three of these canals were the largest on record. Taken collectively also the area irrigated by the productive works in Madras was the largest on record, the increase being due to the favourable character of the season. The net revenue yielded by these works in 1901-02 was 9·55 per cent. on the capital outlay compared with 9·05 per cent in 1900-01.

The percentage returns on the different systems for the year compared with the three previous triennia are—

Name of work.	PERCENTAGE.			
		AVERAGE OF TRIENNIUM.		
	1901-02.	1899-1900 to 1901-02.	1896-97 to 1898-99.	1893-94 to 1895-96.
Godavari Delta	19·17	17·48	17·99	14·53
Kistna Delta	16·00	15·71	12·94	12·59
Cauvery Delta	29·84	31·17	44·00	47·36
Penner	5·33	4·86	5·05	4·75
Kurnool Cuddapah	0·52	0·37	0·18	[illegible]
Barur	1·32	1·54	1·47	[illegible]
Srivaikuntam	6·41	6·39	4·40	4·76
Periyar	3·84	3·25	...	...

The Kurnool Canal still continues the most unremunerative work in the province, but the return from it is gradually increasing, the net revenue in 1901-02 being Rs. 1,12,238 against Rs. 67,654 in 1900-01. The heavy capital expenditure on it will, however, prevent it from ever becoming remunerative. The prospects of the Periyar Project are steadily improving, and there is hope that when the distributing works are completed, its return will still further improve.

8. For the canals in Sind the figures are—

Name of work.	AREA IRRIGATED.			
	During 1901-02.	Average of Triennium.		
		1899-1900 to 1901-02.	1896-97 to 1898-99.	1893-94 to 1895-96.
	Acres.	Acres.	Acres.	Acres.
Jamrao	216,514	133,483	...	...
Desert	145,285	140,9:2	113,957	96,131
Unharwah	76,325	79,248	78,818	50,970
Begari	222,515	255,863	237,171	200,735
Eastern Nara	241,588	281,097	250,879	217,913
Dad	56,241	18,747	*Nil.*	*Nil.*
Mahiwah	10,363	3,454	*Nil.*	*Nil.*
Total ...	968,831	912,804	690,835	565,749

The net revenue fell to 5·9? per cent. on the capital outlay compared with 7·65 per cent. in 1900-01. The falling off is partly due to the character of the inundation and partly to the large expenditure on the Dad and Mahiwah, which have not yet become productive, being taken into account in 1901-02 for the first time. The improved Dad Canal and the Mahiwah Canal, which were brought into operation during the year, irrigated an area of 56,24 and 10,363 acres, respectively.

Percentage returns on capital outlay are—

Name of work.	PERCENTAGE.			
	1901-02.	Average of Triennium.		
		1899-1900 to 1901-02.	1896-97 to 1898-99.	1893-94 to 1895-96.
Jamrao	3·35	2·46	...	...
Desert	5·73	7·08	5·45	0·73
Unharwah	16·77	17·96	16·47	9·05
Begari	18·82	21·00	17·51	15·45
Eastern Nara	5·97	7·32	6·68	4·73

9. In Bombay (Deccan and Gujarat) the return on the capital expenditure was 1·87 per cent. compared with 1·8 , 1·60 and 2·06 for the three triennia. The works are small compared with those of other provinces: the extent of the area irrigated by them continues steady.

10. In Bengal, the irrigated area was the largest on record, the comparative growth is as follows:—

Name of work.	AREA IRRIGATED.			
	During 190.-02.	AVERAGE OF TRIENNIUM.		
		1899-1900 to 1901-02.	1896-97 to 1898-99.	1893-94 to 1895-96.
	Acres.	Acres.	Acres.	Acres.
Sone	557,494	481,333	476,466	359,711
Midnapore	82,134	78,190	71,322	73,710
Orissa	201,498	201,955	191,832	115,182
Total	841,126	761,478	739,620	548,603

The Hijili Canal, which is a purely navigation canal, paid 0·69 per cent. on the capital cost compared with 0·53, 1·62 and 0·20, the previous triennial averages. The navigation receipts on the Bengal canals have suffered from the competition of the Bengal-Nagpur railway.

11. In addition to the 38 productive works now in operation, four new works were under construction during the year, *viz.*, the Mandalay and Shwebo Canals in Upper Burma, and the Naulakhi and Nasrat Canals in Sind. The total outlay on these works to the end of the year (excluding interest charges) amounted to Rs. 57,03,469, of which Rs. 17,18,644 were expended during the year. In addition Rs. 68,88,513 were spent on works now in operation, principally on extensions or improvements which are likely to prove remunerative and to increase the efficiency of these works and also on completing the new canals opened during the year. The total capital expenditure on irrigation works during the year, therefore, amounted to Rs. 86,07,157 against Rs. 91,80,167 in the previous year. The new works opened during the year are the Jhelum Canal in the Punjab and the Dad and Mahiwah Canals in Sind.

No capital expenditure was incurred during the year on navigation works.

II.—PROTECTIVE WORKS.

12. Protective irrigation works are those which have been sanctioned in consideration of their value as famine protective works, but without any expectation of their becoming directly remunerative. The cost of their construction has been met from the famine grant. There are at present five of these works in operation, particulars of which are shown in the statement below:—

Financial results of Protective Works in operation.

Name of work.	Province.	Area irrigated in 1901-02.	Capital outlay to end of 1901-02.	Net revenue in 1901-02.	Return on capital outlay.
		Acres.	Rs.	Rs.	Per cent.
Swat River Canal	North-West Frontier Province.	157,829	41,37,472	4,07,305	9·84
Betwa Canal	United Provinces	48,767	45,12,210	—35,249	...
Rushikulya Project	Madras	85,355	48,38,030	34,696	0·72
Mhasvad Tank	Bombay	8,280	20,83,065	12,658	0·61
Nira Canal	Do.	51,052	56,85,796	1,69,736	2·99
Total 1901-02	...	351,293	2,12,56,573	5,89,146	2·77
Total 1900-01	...	339,415	2,11,82,415	4,98,465	2·35
Total 1899-1900	...	317,379	2,10,08,864	5,26,669	2·51

The Swat River Canal, although sanctioned as a protective work, has proved a highly remunerative one. The Betwa Canal has seldom paid even its working expenses, but improvements to it are under contemplation, which, it is hoped, will render it more remunerative. The Nira Canal has proved of great utility, and the area irrigated by it was about the same as irrigated in 1900-01, which was the largest on record. The other two works are not likely to prove remunerative.

The area irrigated during the year is well above the average of the last three triennia for all provinces as is shown by the following statement:

Protective Works.

Name of work.	Province.	AREA IRRIGATED — During 1901-02.	Average of Triennium. 1899-1900 to 1900-01.	1896-97 to 1898-99.	1893-94 to 1895-96.
		Acres.	Acres	Acres.	Acres.
Swat River ...	North West Frontier Province ...	157,829	160,655	133,801	94,640
Betwa ...	United Provinces ...	48,767	39,550	58,620	20,712
Rushikulya ...	Madras ...	85,365	83,2 7	71,203	23,833
Nira } Mhasvad } ...	Bombay ...	59,332	52,586	48,089	29,772
	Total ...	351,293	336,028	311,713	168,957

13. The particulars given in the following statement relate to all major works (Productive and Protective) taken together:—

Irrigation statistics of Productive and Protective Works in operation.

Province.	Area irrigated.	Estimated value of crops.	Average value of crops per acre	Average rate of revenue assessed per acre.	Working expenses, rate per acre irrigated.	Percentage of working expenses on gross revenue.
	Acres.	Rs.	Rs.	Rs.	Rs.	Per cent.
North-West Frontier Province ...	157,829	41,68,713	26·4	3·1	0·6	18·9
Punjab, Imperial ...	4,111,246	11,68,03,092	28·4	3 6	1 0	29·7
Punjab, Native States ...	380,592	97,76,687	25·7	3·7	1·9	80·5
United Provinces ...	2,501,510	8,15,25,612	32·6	3·8	1 3	40·2
Madras ...	2 981,672	9,44,50,652	31·7	4 2	0·8	19·5
Sind	968,830	1,71,97,493	17·7	1·9	0·6	30·2
Bombay ...	86,771	62 44,139	32·0	6·0	2·8	39·0
Bengal ...	841,126	3 20,47,741	38·1	1·9	1·4	69·2
Total 1901-02 ...	12,029,576	36,22 14,130	30·1	3 5	1·1	31·4
Total 1900-01 ...	11,208,391	35,46,33,615	31·6	3·5	1·1	29 7
Total 1899-1900 ...	11,409,527	36,02,22,917	31·6	3·4	1·1	30·3

Compared with the year 1900-01 the general results are almost identically the same, but there are considerable variations in some of the provinces, the largest of which are noted below.

In respect of the average value of the crops, the United Provinces have decreased from Rs. 39·2 per acre owing principally to decrease in the value of sugarcane and wheat, and Madras from Rs. 36·7 per acre which is due to decrease in the value of rice, and Bombay from Rs. 77·2 per acre owing to the smaller prices obtained for sugar. Sind has increased from Rs. 15·6 per acre and Bengal from Rs. 34·4 per acre.

Only in Bombay has there been any large variation in the average assessment, which in this case has increased from Rs. 4·8 per acre owing to an increase in the area of high rated crops.

Working expenses have risen in Sind and Bombay from Rs. 0·4 and 2·5 per acre, respectively. In both cases there has been an increase in the charges for repairs and establishment. In the United Provinces and Bengal they have fallen from Rs. 1·7 per acre owing to an increase in the irrigated area.

These variations account for the variations in the percentage of working expenses on gross revenue.

The total area irrigated has increased by 821,185 acres and the estimated value of crops by Rs 75,80,515.

B.—MINOR WORKS.

III.—Works for which Capital and Revenue Accounts are kept.

14. All expenditure incurred in the construction and development of minor irrigation works is met from revenue. These works are treated as provincial in all provinces except Sind, Bombay, Baluchistan, Rajputana and the Punjab, in which all but a few works are Imperial. Capital and Revenue Accounts are kept for 79 of the larger and more important minor works, and the financial results attained during the year under review are shown in the following statement:

Financial results of Minor Works in operation for which Capital and Revenue Accounts are kept.

Province.	Number of works.	Area irrigated.	Capital outlay to end of 1901-02.	Net revenue in 1901-02.	Percentage of net revenue on capital outlay.	Rate of revenue assessed per acre
Irrigation.		Acres.	Rs.	Rs.	Per cent.	Rs.
North-West Frontier Province ...	1	...	4.93.032	71,148	14·43	...
Punjab	4	383,699	21,23,588	5,32,789	25·09	2·0
Madras	25	568,364	1,00,35,858	7,02,414	7·00	3·4
United Provinces	4	115,947	29 92,983	51,376	1·72	2·2
Bombay (Deccan and Gujarat) ...	25	42,269	75,05,9 7	—44,223	...	1·9
Bombay (Sind)	7	846,354	40,07,496	8,85,188	22·[illegible]9	2·2
Rajputana	3	23,984	29,99 683	90,372	3·01	4·8
Baluchistan	2	7,712	16,46,246	23,789	1·44	5·4
Bengal	1	...	7 06,559	—6,155	...	...
Burma (embankments)	...	440,046	33 84 974	9,05,135	25·74	2 5
Total irrigation—						
1901-02	73	2,428,375	3.58.95,336	32,11,833	8·95	2·7
1900-01	73	2,625,456	3.53.74,149	2650,,056	7·49	2·4
1899-1900	72	2,512,229	3,43,40,074	19,17,256	5·58	2·3
Navigation, 1901-02.						
Madras	4	...	93,03,133	—32,527	...	...
Bengal	2	...	1,12,83 9°9	1,12,389	1·00	...
Total Navigation ...	6	...	2,05,87,122	79,862	0·39	...

15. The capital outlay during the year on Irrigation Works amounted to Rs. 5,13,707. The expeniture in Rajputana was Rs. 50,610; in the Punjab, Rs. 61,131; in Madras, Rs. 2,46,290; and in Bombay, Rs. 59,055. In the other provinces the expenditure was less than Rs. 50,000 in each case.

16. Comparison of the area irrigated during the year and the averages of the three previous triennia gives:

Province.	AREA IRRIGATED.			
	During 1901-02.	AVERAGE OF TRIENNIUM.		
		1899-1900 to 1901 02.	1896-97 to 1898 99.	1893-94 to 1895-96.
	Acres.	Acres.	Acres.	Acres.
Punjab (a)	(b) 390,852	529,393	716,177	691,615
United Provinces	(c) 114,595	134,577	148,376	97,562
Madras	568,364	532,548	540,911	489,656
Sind	846,698	831,324	804,948	774,513
Bombay	42,269	40,859	39,144	25,360
Rajputana	24,088	24,100	33,539	33,131
Baluchistan	7,712	5,345	5,033	5 667
Burma	440,046	433,271	396,906	350,016
Total ...	2,434,624	2,531,417	2,685,034	2,467,520

(a) The transfer of Lower Sutlej and Chenab Inundation Canals from Minor Works for which Capital and Revenue Accounts are kept to Minor Works for which only Revenue Accounts are kept, largely accounts for the apparent reduction in area irrigated.

(b) Includes area irrigated by Ghaggar Canals in Bikaner State, 7,153 acres.

(c) Excludes 1 352 acres old irrigation from the Bundelkhand Lakes included in acreage, paragraph 14.

The net revenue in the Punjab was 25·09 per cent. on the capital outlay compared with 16 57, 21·41 and 19·06, triennial averages; this increase was mainly due to the Upper Sutlej Inundation Canals, which during the year under review yielded a return of 4 .·20 per cent. against 16·74, 10·56 and 16·66, triennial averages. In the case of the United Provinces the net revenue was 1·72 per cent. in 1901-02 compared with 3·23, 5·61 and 2 96, triennial averages. The decrease was principally due to contracted irrigation in the winter of 1900-01, and partly to a small increase in the working expenses.

Rajputana gave a return of 3·01 per cent. against—*1·37*, 3·06 and 39·4, triennial averages.

The working expenses exceeded the gross revenue in Bengal by Rs. 6,155 and in Bombay by Rs. 44,223. In this latter province the maintenance charges are always high owing to the small areas irrigated by the works and in a great measure to the expenditure necessary to maintain their storage reservoirs.

The area shown in Burma is not under irrigation, but represents the area of cultivation on lands reclaimed by river flood embankments, the revenue of which is credited to the capital account of the works. This area in 1901-02 exceeded that in 1900-01 by 5,052 acres.

IV.—Works for which only Revenue Accounts are kept.

17. There are numerous Minor Works for which separate Capital Accounts are not kept, either because the works are too small, or because they have not been constructed by the British Government, which has simply undertaken their improvement and maintenance. For such works only Revenue Accounts are maintained; they are credited with a share of the land revenue depending on their maintenance and are debited with all expenditure incurred on construction, extension, improvements and maintenance. Particulars for the year 1901-02 are shown by provinces in the statement below:

Financial results of Minor Works for which only Revenue Accounts are kept.

Province.	Area irrigated.	Revenue receipts.	Charges.	Net revenue.
	Acres.	Rs.	Rs.	Rs.
Burma	402,222	13,59,609	16,12,766	—2,53,157
Bengal	...	90,324	1,10,526	—20,202
Punjab	570,189	8,58,201	5,34,335	3,23,866
Bombay, including Sind	1,091,590	25,11,927	9,37,895	15,74,032
Total 1901-02 ...	2,064,001	48,20,061	31,95,522	16,24,539
Total 1900-01 ...	2,581,829	59,84,737	29,09,935	30,74,802
Total 1899-1900 ...	1,886,171	50,65,347	26,91,464	23,73,883

V.—Works for which neither Capital nor Revenue Accounts are kept.

18. There is a third important class of Minor Works in the Madras Presidency for which neither Capital nor Revenue Accounts are kept. These include over 28,000 tanks and 6,000 irrigation channels, the improvements and repairs of which are executed by the Public Works Department, or, in the case of the smaller works, by civil officers; the expenditure during 1901-02 amounted to Rs. 22,15,956, of which about one-quarter was spent by civil officers. The areas charged as irrigated by these small works in 1901-02 aggregated 3,334,518 acres, or more than all the Major Works in the Presidency taken together, compared with 3,111,902, 3,144,652 and 3,380,392 averages of previous triennia, and the revenue derived therefrom amounted to Rs. 85,38,570, the figure for the previous year being Rs. 79,85,620.

19. The following table summarizes the results of irrigation for all India during 1901-02 and compares them with those of the two previous years:

Financial and Irrigational results of Irrigation Works in operation in India.

Class of work.	Capital outlay to end of year on works in operation.	Gross revenue during the year.	Net revenue during the year.	Percentage of net revenue on capital outlay to end of year.	Area irrigated.
	Rs.	Rs.	Rs.		Acres.
I and II.—Major Works. { I.—Productive / II.—Protective } ...	38,47,28,087	3,69,76,396	2,45,43,104	6·38	12,029,576
III.—Minor Works for which Capital and Revenue Accounts are kept.	5,64,83,458	56,28,706	32,91,695	5·83	2,428,375
IV.—Minor Works for which only Revenue Accounts are kept.	...	48,20,061	16,24,539	...	2,064,001
V.—Works for which neither Capital nor Revenue Accounts are kept.	...	86,59,077	52,17,680	...	3,394,615
Total 1901-02 ...	44,12,11,545	5,60,84,240	3,46,77,018	(a) 6·31	19,916,567
Total 1900-01 ...	42,47,95,683	5,73,92,006	3,63,29,819	(a) 6·77	19,646,291
Total 1899-1900 ...	41,97,47,941	5,17,91,726	3,39,00,108	(a) 6·28	18,663,416

(a) Percentages calculated on works of classes I, II and III.

The total area fell little short of 20 million acres and is the largest on record, while the value of the crops raised by the works for which capital accounts are kept is estimated at nearly Rs. 42 crores, or nearly 95 per cent. of the capital outlay expended on them.

ORDER.—Ordered that this Review, with a copy of the note by the Accountant-General, Public Works Department, be forwarded to the Finance and Commerce and Revenue and Agricultural Departments and to the Local Governments and Administrations in the Public Works Department noted on the margin for information.

The Governments of Madras, Bombay, Bengal, the United Provinces of Agra and Oudh, the Punjab and Burma.
The Honourable the Chief Commissioners of the Central Provinces, Assam and Coorg.
The Honourable the Resident at Hyderabad.
The Honourable the Agents to the Governor-General for Central India, Rajputana and Baluchistan.
The Honourable the Agent to the Governor-General and Chief Commissioner, North-West Frontier Province.
The Accountant-General, Public Works Department.

Ordered, also, that the Review and the note be published in the Supplement to the *Gazette of India*.

Ordered, further, that a copy of the Review and note be forwarded to His Majesty's Secretary of State for India for information.

SIDNEY PRESTON,
Secretary to the Government of India.

Punjab Government Press, Lahore—17-9-03—625.

Government Gazette

PUNJAB AND IT'S DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, SEPTEMBER 24, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED SEPTEMBER 19, 1903.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

CIVIL VETERINARY ADMINISTRATION.

Simla, the 16th September, 1903.

No. 1653—10C-4.—Veterinary-Major H. T. Pease, Principal, Punjab Veterinary College, Lahore, is appointed to hold charge of the current duties of the office of the Inspector General, Civil Veterinary Department, in addition to his own duties during the absence on privilege leave of Veterinary-Lieutenant-Colonel J. W. A. Morgan.

J. O. MILLER,

Secretary to the Government of India.

Punjab Government Press, Lahore—24 9-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, OCTOBER 1, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED SEPTEMBER 26, 1903.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATIONS.

Simla, the 25th September, 1903.

No. 353.—Mr. E. A. Dennys, Examiner of Accounts, is, on return from leave, reappointed Examiner of Public Works Accounts, Punjab.

No. 354.—Mr. A. L. Wright, officiating Examiner of Public Works Accounts, Punjab, is appointed Examiner of Public Works Accounts, Assam.

SIDNEY PRESTON,

Secretary to the Government of India.

FROM THE SUPPLEMENT TO THE "GAZETTE OF INDIA," DATED SEPTEMBER 26, 1903.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

No. 1732—96-3.

Simla, the 24th September, 1903.

The following circular, regarding the opening of forests to grazing in times of famine, is published for general information.

J. O. MILLER,

Secretary to the Government of India.

Circular No. 21—96-3.

FROM

J. O. MILLER, ESQ., C.S.I.,

Secretary to the Government of India,

TO

LOCAL GOVERNMENTS AND ADMINISTRATIONS (EXCEPT ASSAM, COORG, NORTH-WEST FRONTIER PROVINCE, BALUCHISTAN AND BERAR).

Dept. of Rev. and Agri.
Famine.

Simla, the 23rd September 1903.

SIR,

I am directed to refer to the recommendations of the Famine Commission of 1901 contained in paragraph 216 of their Report on the subject of the opening of forests to grazing in times of famine.

2. The Commission, while holding that no pressure should be put on the people to send cattle to the forests owing to certain risks which they pointed out, were of opinion that the forests should be opened to all who were prepared to take these risks. They further recommended that in cases when the supply of grass was likely to be limited and a demand for its export was likely to spring up restrictions should be placed on free grazing either by selection of the cattle which should be allowed access to the grazing grounds or by the imposition of a fee. The Inspector General of Forests was requested to consider these recommendations in consultation with Local Governments and the Inspector General of Agriculture. He has now submitted his opinion, together with a statement of the views expressed by Local Governments, and I am directed to communicate the following orders of the Government of India on the subject.

3. The replies of the Local Governments and Administrations show that there is nowhere any difference of opinion as to the general principle involved which is, that it is desirable to open forests in times of drought to grazing where practicable, but that grazing should not be unrestricted if the supply of grass is likely to be less than the demand. There is some difference of opinion as to the details of the arrangements that should be made for the regulation of grazing in accordance with this principle; and the Government of India consider that it is impossible to prescribe any specific rules on the subject, since so much must depend upon the degree and extent of the fodder famine that has to be relieved, the quantity and quality of the grass available, the demand for grass for export, the local conditions of the forests, and many other factors which will vary, not only in different parts of the country, but in the same place on different occasions. But they think that it is possible, and will be useful, to lay down the general lines on which action should proceed.

4. In a fodder famine the preservation of agricultural cattle is a matter of far greater importance than any revenue which might be obtained from grazing fees. If such fees are levied at all, they should be imposed on administrative grounds and not as a source of income.

5. The selection of cattle for admission to forests is beset with many difficulties and is generally impossible. In a province where the number of great landlords is large, it may be possible to utilize their services for this purpose, and provision to this effect has been made in the rule in force in the United Provinces. But selection, when it has to be effected through subordinates on small pay, is open to strong and obvious objections. On the other hand, any limitation of the number of cattle admitted to the grazing grounds by the imposition of a grazing fee is open to the objection that it amounts to an automatic selection of owners, rather than of cattle; and that it excludes the cattle of the very people who, being the poorest, are in greatest need of assistance. Moreover, any system of limitation, whether by selection or by the imposition of a fee, can be enforced only by prosecutions and impounding, which are especially objectionable in times of distress. Probably the only cases in which differentiation is unobjectionable occur in dealing with (1) the cattle of villages in the vicinity of a forest, which have the first claims upon its pastures, and (2) the cattle of professional graziers and cattle-breeders, which may properly be charged for grazing, even when agricultural cattle are admitted free. But if it is found that cattle are resorting to a forest in numbers greatly exceeding its grazing capacity, it may become absolutely necessary to limit the numbers.

6. In view of the considerations set forth in the preceding paragraphs the course which seems to the Government of India most generally suitable for adoption is, to throw open to free grazing areas in which grazing is ordinarily permitted, and to reserve the areas which are ordinarily closed to grazing, for the supply of grass for export. It may be necessary to supplement the latter by reserving portions of the former areas for grass-cutting; or it may be possible to throw open portions of the latter at once when the supply is in excess of the demand for export. But, the needs of local cattle being provided for the supply of grass for export should be the first consideration. When the grass has been cut from the areas thus reserved, they also may be thrown open to free grazing if necessary. Browsers should not be admitted without payment to any areas which contain forest growth of any importance, and should in no case be admitted to areas ordinarily closed to grazing. No grazing should ever be allowed in areas under plantation or regeneration, unless the trees are old enough to be safe from attack. The small relief that such areas might afford is too dearly purchased by sweeping away the results of years of patient care.

7. I am to request that, with the approval of His Excellency the Governor, / if you approve, His Honour the Lieutenant-Governor, the rules regarding the utilization of forests for the preservation of cattle in times of drought contained in the Famine Code may be revised, if necessary, in accordance with the suggestions contained in the preceding paragraphs. I am at the same time to forward for information a copy of the rules now in force in the Madras and Bombay Presidencies, in Bengal, the United Provinces and the Punjab.

I have the honour to be,

Sir,

Your most obedient Servant,

J. O. MILLER,

Secretary to the Government of India.

Circular No. 21—96-3.

COPY forwarded to the
Agent to the Governor-General, Baluchistan
Resident at Hyderabad
Hon'ble the Chief Commissioner, North-West Frontier Province
Chief Commissioner, Assam
Chief Commissioner, Coorg
, for information and guidance.

By order,

R. E. V. ARBUTHNOT,

Under-Secretary to the Government of India.

Punjab Government Press, Lahore—2-10-03—625.

4. In a field ... the preservation of agricultural cattle is a matter of far greater importance than any revenue which might be obtained from grazing fees. If such fees are levied at all, they should be imposed on administrative grounds and not as a source of income.

5. The selection of cattle for admission to forests is beset with many difficulties and is generally impossible. In a province where the number of great landlords is large, it may be possible to utilize their services for the purpose, and provision to this effect has been made in the rule in force in the United Provinces. But selection, when it has to be effected by subordinates on small pay, is open to strong and obvious objections. On the other hand, any limitation of the number of cattle admitted to the grazing grounds by the imposition of a grazing fee is open to the objection that it amounts to an automatic selection of owners rather than of cattle; and that it excludes the cattle of the very people who, being the poorest, are in greatest need of assistance. Moreover, any system of limitation, whether by selection or by the imposition of a fee, can be enforced only by prosecutions and impounding, which are especially objectionable in times of distress. Probably the only case in which discrimination is unobjectionable occurs in dealing with (a) the cattle of villages in the vicinity of a forest which have the first claim upon its pastures, and (b) the cattle of professional graziers and cattle-breeders, which may properly be charged for grazing even when agricultural cattle are admitted free. But if it is found that cattle are resorting to a forest in numbers greatly exceeding its grazing capacity, it may become absolutely necessary to limit the numbers.

6. In view of the considerations set forth in the preceding paragraphs the course which seems to the Government of India most generally suitable for adoption is, to throw open (a) for free grazing areas in which grazing is ordinarily permitted, and (b) early the areas which are ordinarily closed to grazing, for the supply of grass for export. It may be necessary to supplement the latter by reserving portions of the former for grass-cutting; or it may be possible to throw open portions of the latter at once when the supply is in excess of the demand for export. But the needs of local cattle [illegible] the supply of grass for export should be the first consideration. When the grass has been cut from the areas thus reserved, they also may be thrown open to free grazing if necessary. Browsers should not be admitted without payment to any areas which contain a forest growth of any importance, and should in no case be admitted to areas ordinarily closed to grazing. No grazing should ever be allowed in areas under regeneration or reproduction, unless these are necessary to the safety of such areas. The small relief that such areas might afford in [illegible] would be purchased by sacrificing [illegible] care.

7. I am to request that the rules [illegible] regarding the utilization of forests for the preservation of cattle in times of drought contained in the Famine Code may be revised, if necessary, in accordance with the suggestions contained in the preceding paragraphs. I am at the same time to forward for information a copy of the rules now in force in the Madras and Bombay Presidencies, in Bengal, the United Provinces and the Punjab.

I have the honour to be,

Sir,

Your most obedient Servant,

J. O. MILLER,

Secretary to the Government of India.

Circular No. 21—613.

Copy forwarded to the Hon'ble the Chief Commissioner, North-West Frontier Province, Chief Commissioner, Assam, Chief Commissioner, Coorg, ... for information and guidance.

By order,

R. E. V. ARBUTHNOT,

Under-Secretary to the Government of India.

Punjab Government Press, Lahore—2-10-03—[illegible]

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, OCTOBER 8, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED OCTOBER 3, 1903.

HOME DEPARTMENT.

NOTIFICATION.

SANITARY.

PLAGUE.

Simla, the 30th September, 1903.

No. 1485.—By the Home Department Notification No. 2278, dated the 25th October 1902, the Governor-General in Council, under the powers conferred by section 2, sub section *(1)*, of the Epidemic Diseases Act, 1897 (III of 1897), directed that pilgrimage to the Hejaz during the season of 1903 might be permitted to any resident of India, subject to certain precautions, from the ports of Bombay and Karachi in the Presidency of Bombay; and of Chittagong in Bengal.

2. One of the precautions adopted during the pilgrim season of 1902 and in preceding years was the collection of all intending pilgrims at a provincial observation camp near their homes where they were detained for at least ten days and where their wearing apparel, bedding, etc, was disinfected, previous to their despatch in special trains or carriages to the central camps at or near the ports of embarkation. Experience has shown that it is difficult, if not impossible, to enforce the preliminary period of detention in a provincial camp without resort to stringent measures from which the Government of India are averse. With the concurrence of His Majesty's Government, it has accordingly been decided that during the ensuing pilgrim season no provincial camps for the preliminary observation of pilgrims shall be established and pilgrims shall be permitted to proceed direct to the large camps at the ports of shipment. The Haj will accordingly be open during the ensuing pilgrim season to any resident in India, subject to the regulations hereinafter stated.

3. The orders contained in the Home Department Notification No. 2278, dated the 25th October 1902, are hereby cancelled.

4. The Governor-General in Council is pleased to direct—

(1) That no person shall be permitted to embark with the object of making a pilgrimage to Mecca except at the port of Bombay in the Presidency of Bombay and of Chittagong in the Province of Bengal.

(2) That no person shall be permitted to embark for such purpose at such port unless he has been kept under observation in a place appointed for the purpose at or near the port of embarkation until such time as the Medical Officer in charge shall be satisfied that all risk of such person conveying the infection of plague has completely abated.

(3) That no passage tickets for the Hejaz shall be sold except at the places appointed for the detention of intending pilgrims under observation.

5. Although they have decided that, subject to the foregoing precautions, the pilgrimage to the Hejaz may be permitted, the Government of India think it necessary to repeat the warning given last year, that intending pilgrims will be well advised in deferring the fulfilment of their purpose until another season, in view especially of the stringent quarantine rules imposed by the Turkish Government and of the inconvenience and harassment to which it is likely that they will be subjected on arriving in Arabia.

H. H. RISLEY,

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 2nd October, 1903.

LONDON GAZETTE.

No. 990.—The following extracts are published for general information :

* * * * * * * *

"*London Gazette*," *dated the* 11*th September*, 1903, *pages* 5667, 5669, 5670 *and* 5671.

* * * * * * * *

INDIA OFFICE :

11*th September*, 1903.

The King has approved of the following promotions among officers of the * * * * * Indian Army Department, * * * made by the Government of India :

* * * * * * * *

INDIAN SUBORDINATE MEDICAL DEPARTMENT.

Senior Assistant Surgeons, with the honorary rank of Lieutenant, to be Senior Assistant Surgeons, with the honorary rank of Captain.

BENGAL ESTABLISHMENT.

Dated 1st January 1903.

* * * * * * * *

Joseph Theophilus Weston.

* * * * * * * *

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

RAILWAYS.

NOTIFICATION.

Simla, the 25*th September*, 1903.

No. 356.—In continuation of Public Works Department Notification No. 494, dated the 7th December, 1901, it is hereby notified for general information that His Majesty's Secretary of State for India has sanctioned an estimate amounting to Rs. 71,59,098 for the construction of an extension of the Jech-Doab Railway from Sargoda near the Karana hills to Shorkot Road Station on the Wazirabad-Khanewal Railway, a distance of 103 miles.

2. This extension will be known as the Southern Section, Jech-Doab Railway and will be under the control of the Director of Railway Construction.

A. BRERETON,

Secretary to the Government of India.

Punjab Government Press, Lahore—8-10-03- 625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, OCTOBER 15, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED OCTOBER 10, 1903.

HOME DEPARTMENT.

NOTIFICATION.

SANITARY
PLAGUE.

Simla, the 9th October, 1903.

No. 1533.– Whereas the Governor General in Council is satisfied that the Ajmer District is visited by an outbreak of dangerous epidemic disease and that there is a danger of its spread, if pilgrims or other persons from the Bombay Presidency (including the Baroda State), the Districts of Lucknow and Fatehgarh of the United Provinces, the Districts of Rawalpindi and Umballa in the Punjab, the Districts of Nimar, Hoshangabad, Nagpur, Akola, Buldana, Basim and Amraoti in the Central Provinces, the Hyderabad State, Central India, the Mewar State and the Nimbahera Pargana of the Tonk State in Rajputana are permitted to assemble at Ajmer on the occasion of the ensuing Pushkar Fair:

In exercise of the power conferred by section 2, sub-section (*1*), of the Epidemic Diseases Act, 1897 (III of 1897), the Governor General in Council is pleased to direct that no tickets to travel by railway to the stations of Ajmer, Tabiji, Saradhna, Mangaliawas, Kharwa, Beawar, Madar, Ladpura, Akhri, Nasirabad, Bandanwara, Singawal and Darl on the Rajputana-Malwa Railway shall be sold from the 15th October to the 10th November 1903 (both days inclusive), within the Bombay Presidency (including the Baroda State), the Districts of Lucknow and Fatehgarh of the United Provinces, the Districts of Rawalpindi and Umballa in the Punjab, the Districts of Nimar, Hoshangabad Nagpur, Akola, Buldana, Basim and Amraoti in the Central Provinces, the Hyderabad State, Central India, the Mewar State, and the Nimbahera Pargana of the Tonk State in Rajputana to any pilgrim or other person intending or believed to be intending to proceed on pilgrimage to the Pushkar Fair.

H. H. RISLEY,

Offg. Secretary to the Government of India.

THE HONOURABLE THE AGENT TO THE GOVERNOR GENERAL AND CHIEF COMMISSIONER, NORTH-WEST FRONTIER PROVINCE.

NOTIFICATION.

Peshawar, the 6th October, 1903.

No. 202.—The services of Mr. E. Tej Bhan, Extra Assistant Commissioner, are replaced at the disposal of the Punjab Government, with effect from the afternoon of the 16th September 1903.

F. W. JOHNSTON,
Offg. Secretary to the Chief Commissioner,
N.-W. F. Province.

Punjab Government Press, Lahore—15-10-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, OCTOBER 22, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED OCTOBER 17, 1903.

HOME DEPARTMENT.

NOTIFICATION.

MEDICAL.

Simla, the 15th October, 1903.

No. 1174.—The services of Lieutenant G. E. Charles, M.B., Indian Medical Service, Officiating Professor of Anatomy, Lahore Medical College, are replaced at the disposal of His Excellency the Commander-in-Chief in India.

H. H. RISLEY,
Offg. Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATIONS.

Simla, the 15th October, 1903.

No. 382.—Mr. E. Du Cane Smithe, Superintending Engineer, 2nd Class, Punjab, is appointed to officiate as Chief Engineer and Secretary to the Government of the Punjab, Public Works Department, Buildings and Roads Branch, with effect from the 5th October 1903.

While so employed Mr. Du Cane Smithe will hold the rank of Chief Engineer, 3rd Class, temporary.

No. 383.—With reference to Public Works Department Notification No. 382, dated 15th October 1903, Lieutenant-Colonel H. E. S. Abbott, D.S.O., R. E., Chief Engineer, 3rd Class, *temporary rank*, Punjab, reverted to Superintending Engineer, 2nd Class, *temporary rank*, with effect from the 5th October 1903.

No. 384.—Mr. H. C. Granville, Superintending Engineer, 3rd Class, temporary rank, Punjab, reverted to Executive Engineer, 1st Grade, with effect from the 5th October 1903, but is appointed to officiate as a Superintending Engineer, from the same date, *vice* Lieutenant-Colonel Abbott on special duty.

SIDNEY PRESTON,
Secretary to the Government of India.

Punjab Government Press, Lahore—22-10-03—625.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, OCTOBER 29, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED OCTOBER 24, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

ECCLESIASTICAL.

Simla, the 22nd October, 1903.

No. 469.—The Reverend H. A. C. Herbert, a Chaplain on probation, is appointed to be a Junior Chaplain on the Bengal (Lahore) Ecclesiastical Establishment, with effect from the 1st September 1903.

The 23rd October, 1903.

No. 471.—The services of the Reverend S. S. Scott, Chaplain of Kamptee, Central Provinces, are placed at the disposal of the Government of the Punjab, with effect from the date on which he relinquished charge of his duties at Kamptee.

H. H. RISLEY,

Offg. Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 23rd October, 1903.

MEDICAL DEPARTMENT.

No. 1047.—With the approval of the Right Hon'ble the Secretary of State for India, the following changes in the rules governing the appointment, pay, promotion, retirement, pension, leave, etc., of officers of the Indian Medical Service are sanctioned, and, except where otherwise stated, will have effect from the 13th August 1903:

1. The commissions of officers admitted into the service on and after the 1st September 1902 will reckon from the date on which their course of instruction in England begins, and all time from that date will count for increase of pay and for promotion and pension.

Pay.

2. The pay sanctioned for the Director-General, Indian Medical Service, in G. G. O. No. 370, dated the 4th April 1867, is raised from Rs. 2,700 to Rs. 3,000 *per mensem.*

3. The following scales of pay are substituted for those at present sanctioned in Articles 7-D, 312-B, 312-C and 534, India Army Regulations, Volume I, Part I:

Medical Charge of a Native Regiment, Grade Pay and Unemployed Pay.

	Medical charge of a Native Regiment (Consolidated).	Grade Pay. (For any month.)	Unemployed Pay. (For any month.)
	Rs.	Rs.	Rs.
Colonel	...	1,000	...
Lieutenant-Colonel (specially selected for increased pay) ...	1,400	1,000	...
Lieutenant-Colonel after 25 years' service	1,300	900	...
Lieutenant-Colonel	1,250	900	...
Major after 3 years' service	900	750	...
Major	800	650	...
Captain after 10 years' service	700	550	...
" " 7 " "	650	500	...
" " 5 " "	600	450	475
Captain	550	400	475
Lieutenant	500	350	420

Note.—Staff pay is the difference between consolidated pay and grade pay.

Examination.

4. Officers after completing 18 months' service will be required to pass an examination in military law and military medical organisation.

Specialist Pay.

5. Specialist pay at the rate of Rs. 60 a month will be granted to officers below the rank of Lieutenant-Colonel who may be appointed to certain posts.

Retirement.

6. Lieutenant-Colonels specially selected for increased pay, if physically fit and reported to be efficient, will be permitted to remain in service beyond the age of 55 until they complete thirty years' service. Such officers, however, will not be eligible for promotion to the administrative grade nor for the special extra pension of £100 per annum.

Pensions.

7. The following rates of retired full pay are substituted for those at present sanctioned by Article 1461, India Army Regulations, Volume I, Part I :

	Per annum.
After 17 years' service	£300
" 20 " "	£400
" 25 " "	£500
" 30 " "	£700

8. The following scale of extra pensions for officers of the administrative grade is substituted for that at present sanctioned by Article 1465, India Army Regulations, Volume I, Part I :

Surgeon-General after 3 years' active service as such	£350
Colonel after 3 years' active service as such ...	£125
Colonel after 5 years' active service as such ...	£250

Study Leave.

9. On the recommendation of the Director-General, Indian Medical Service, and with the approval of the Government of India, officers will be granted study leave to the extent of one month for each complete year's service up to a maximum of twelve months.

The leave will be treated as extra furlough and will count as service in India. Officers on study leave will receive ordinary furlough pay with lodging allowances of 4*s*., 6*s*., and 8*s*. a day in addition, for Lieutenants, Captains and Field Officers, respectively, and they will be allowed to retain a lien on their Indian appointments.

E. G. BARROW, *Major-General,*

Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 21st October, 1903.

No. 391.—The Governor-General in Council is pleased to order the following promotions and reversions to, and in the classes of, Chief and Superintending Engineers, attached to the Irrigation Roads and Buildings Branch, with effect from the dates specified :

Names.	From	To	Nature of promotion.	With effect from
				1903.
* *	* *	* *	* *	* *
Macdonald, W. ...	Superintending Engineer, 3rd Class, *temporary rank.*	Superintending Engineer, 2nd Class.	Temporary	23rd August.
Farrant, J. T. ...	Officiating Superintending Engineer.	Superintending Engineer, 3rd Class.	Temporary	Ditto.
* *	* *	* *	* *	* *
Kennedy, R. G. ...	Chief Engineer, 2nd Class, *temporary rank.*	Chief Engineer, 1st Class	Temporary	3rd September.
* *	* *	* *	* *	* *
Field, G. M. R. ...	Superintending Engineer, 1st Class, *supernumerary.*	Chief Engineer, 3rd Class, *supernumerary.*	Permanent	3rd September.
* *	* *	* *	* *	* *
Murray, F. C. ...	Superintending Engineer, 1st Class, sub. *pro tem.*	Superintending Engineer, 1st Class.	Permanent	3rd September.
Baker, H. V. S. ...	Superintending Engineer, 1st Class, *temporary rank.*	Superintending Engineer, 1st Class.	Sub. *pro tem*	Ditto.
Pargiter, E. H. ...	Superintending Engineer, 2nd Class.	Superintending Engineer, 1st Class.	Temporary	Ditto.
Hatten, J. J. ...	Superintending Engineer, 2nd Class, sub. *pro tem.*	Superintending Engineer, 2nd Class.	Permanent	Ditto.
* *	* *	* *	* *	* *
Johnston, H. J. ...	Officiating Superintending Engineer.	Superintending Engineer, 3rd Class.	Temporary	3rd September.
* *	* *	* *	* *	* *
Field, G. M. R. ...	Chief Engineer, 3rd Class, *supernumerary.*	Chief Engineer, 2nd Class, *supernumerary.*	Temporary	10th September.
* *	* *	* *	* *	* *
Granville, H. C. ...	Superintending Engineer, 3rd Class, *temporary rank.*	Officiating Superintending Engineer.	Reversion	5th October.
* *	* *	* *	* *	* *

SIDNEY PRESTON,

Secretary to the Government of India.

Punjab Government Press, Lahore—29-10-03—630.

Government Gazette

PUNJAB AND IT'S DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, NOVEMBER 5, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED OCTOBER 31, 1903.

MILITARY SECRETARY'S OFFICE.

NOTIFICATION.

Simla, the 28th October, 1903.

No. 763 *M.*—His Excellency the Viceroy and Governor-General will leave Simla at noon on Friday, the 6th November 1903. The departure will be private.

His Excellency will visit Patiala, Nabha, Jind, Bahawalpur, Hyderabad (Sind), Karachi, certain stations on the Persian Gulf, Alwar, Bharatpur and Agra, and will arrive at Calcutta on Wednesday, the 16th December 1903.

All covers intended to reach the Viceroy and Governor-General during the tour should be addressed "His Excellency the Viceroy's Camp" without the addition of any post-town.

The party accompanying His Excellency throughout the tour is as follows:

L. W. Dane, Esq., I.C.S., Foreign Secretary.

Lieutenant-Colonel the Hon'ble E. Baring, C.V.O., Military Secretary.

Captain C, Wigram, Aide-de-Camp.

In adddition to the above the following will accompany His Excellency to the Persian Gulf:

Her Excellency Lady Curzon.

J. G. Lorimer, Esq., I C.S., Foreign Department.

Captain W. E. A. Armstrong, I.M.S., Surgeon. Captain R. G. T. Baker-Carr, Aid-de-Camp. Major F. L. Adam, Aid-de-Camp.	Will also be at Alwar and Bharatpur.
Lieutenant-Colonel C. P. Lukis, Indian Medical Service. Captain V. A. S. Keighley, Aid-de-Camp. Major A. V. Poynter, Aid-de-Camp. F. W. Latimer, Esq., C.I E, Assistant Private Secretary.	Will also be at the Phulkian States and Bahawalpur.

Khan Bahadur Abdur Rahim Hakim, Attaché, Foreign Department.

All communications of a mere routine nature should be sent, as usual, to the Head-Quarters of the several Departments.

By Command,

EVERARD BARING, LIEUT.-COL.,

Military Secretary to the Viceroy.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Simla, the 28th October, 1903.

No. 3423.—His Excellency the Governor-General is pleased to declare that the Inspector-General of Agriculture in India shall have the privilege of private entrée to Government House.

EXAMINATIONS.

The 30th October, 1903.

No. 632.—With reference to rules 4 and 9 of the rules published with the Home Department Notification No 529, dated the 8th September 1899, and to rules 2 and 6 published with the Resolution of the Government of Bengal, No. 364 T.-F., dated the 10th October 1894, it is hereby notified that the examination prescribed for filling up vacancies in the lower division of the Secretariat clerical service of the Government of India and attached offices, and in the clerical establishments of the offices subordinate to the Government of Bengal, will be held at Calcutta in the Senate House of the Calcutta University, commencing on Saturday, the 9th January 1904.

The examination at Allahabad and Lahore will be held at the same time at the places to be appointed by the Governments of the United Provinces and the Punjab, respectively. The hours of examination at Calcutta will be from 10 A M. to 1 P M. and from 1 30 P.M. to 4-30 P. M. daily.

The probable number of vacancies in the lower division of the Secretariat clerical service of the Government of India and attached offices to be competed for is twenty-one. Of these, ten will be reserved for candidates domiciled in the United Provinces, the Punjab, the Central Provinces, Rajputana, Central India and Baluchistan, provided that a sufficient number of such candidates, duly qualified, appear for the examinations to be held at Allahabad and Lahore. The remaining vacancies will be offered for competition among the candidates examined at Calcutta, and such candidates temporarily resident, but not domiciled, in any of the provinces enumerated above, as may be permitted to present themselves for examination at Allahabad and Lahore.

The probable number of vacancies in the offices subordinate to the Government of Bengal is ten. These will be reserved for candidates examined at Calcutta.

Candidates should pay the prescribed fee (Rs. 10) into the nearest treasury and forward the treasury receipt to the Secretary to the Board of Examiners, Calcutta. Candidates paying their fees in Calcutta should pay them into the Bank of Bengal.

Application for permission to appear at the examination should be made to the Secretary to the Board of Examiners, Calcutta, between the date of this notification and the 15th December next (inclusive).

The attention of intending candidates is called to rule 8 of the rules* published with the Home Department Notification of the 8th September 1899 and to rule 5 of the rules published with the Resolution of the Government of Bengal of the 10th October 1894 as amended by Notification No. 877-T.-F., dated the 17th October 1896, prescribing the particulars and documents† which should accompany the application for permission to appear at the examination.

* *Particulars and documents prescribed in rule* 8 *of the rules published with the Home Department Notification of* 8*th September* 1899—

(1) Evidence that the candidate at the date of making his application is not less than 18 and not more than 24 years of age. The date of the candidate's birth must be stated.

(2) In case the candidate has been educated at a school in which student's good conduct registers are kept, the candidates register for the last year of his attendance at school when a year has not elapsed since he left school. In other cases, a certificate that the candidate is of good moral character from the head of the institution in which he has last been educated, or from some respectable householder to whom he is well known in private life, and who is himself known to a district or sub-divisional magistrate or to the head of some Government office,—this last fact being certified by the countersignature of the officer in question.

(3) If the candidate is employed under Government a certificate by the head of the office or department to the effect that, in his opinion, there is no objection to the candidate appearing at the ensuing clerkship examination.

(4) A statement whether the candidate has appeared at any previous clerkship examination, and, if so, in what year.

† *Particulars and documents prescribed in rule* 5 *of the rules published with the Resolution of the Bengal Government of the* 10*th October* 1894, *as amended by Notification No. 877-T.-F., dated the* 17*th October* 1896—

(1) The candidate's certificate of the Entrance or any higher University examination, or of Standard VII prescribed by the Code for European Schools.

(2) Evidence that the candidate at the date of making his application is not less than 18 and not more than 24 years of age. The date of the candidate's birth must be stated.

(3) In case the candidate has been educated at a school in which student's good conduct registers are kept, and in case a year has not elapsed since he left school, a copy of the candidate's register for the last year of his attendance at school certified by the head master. In other cases a certificate that the candidate is of good moral character from the head of the institution in which he has last been educated, or from some respectable householder to whom he is well known in private life, and who is himself known to a district or sub-divisional magistrate or to the head of some Government office,—this last fact being certified by the countersignature of the officer in question.

H. H. RISLEY,

Offg. Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

FORESTS.

Simla, the 28*th October*, 1903.

No. 1276—188-20-*F.*—(i) Mr. E. G. Chester, Conservator of Forests, 2nd (officiating 1st) grade, Central Provinces, is transferred to the Punjab Forest Circle, of which he received charge from Mr. F. Beadon-Bryant, Conservator, 2nd grade, on the afternoon of the 24th September 1903.

(ii) Mr. F. Beadon-Bryant is transferred to the Southern Circle, Upper Burma, of which he received charge from Mr. J. Copeland, Officiating Conservator, on the forenoon of the 19th October 1903.

* * * * * * * *

J. O. MILLER,

Secretary to the Government of India.

MILITARY DEPARTMENT.

Simla, the 30th October, 1903.

SPECIAL.

No. 1072.—With reference to article 280, Army Regulations, India, Volume I, Part I, the undermentioned officer, having been absent from military duty for ten years, is transferred to the supernumerary list, with effect from the date specified:

Captain B. C. Waterfied, Indian Army, Assistant Commissioner, Punjab. Dated 19th April 1903.

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

Punjab Government Press, Lahore—6-11-03—630.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, NOVEMBER 12, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED NOVEMBER 7, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

MEDICAL.

Simla, the 5th November, 1903.

No. 1281.—The services of Major W. R. Clarke, M. B, C. M., Indian Medical Service (Bengal), Civil Surgeon, Simla, are replaced at the disposal of the Government of the Punjab, with effect from the date on which he may be relieved of his present duties.

No 1282—Major A. J. Macnab, F. R. C. S., Indian Medical Service (Bengal), Medical Officer, Queen's Own Corps of Guides, to be Joint Medical Officer of Simla, with effect from the date on which he may assume charge of his duties.

ECCLESIASTICAL.

The 4th November, 1903.

No. 505.—The Reverend Hugh William Farquharson Fagan has been appointed a Chaplain on probation on the Bengal (Lahore) Ecclesiastical Establishment to fill an existing vacancy.

The 5th Novmber, 1903.

No 509.—The Reverend John King has been appointed a Chaplain, on probation, on the Bengal (Lahore) Ecclesiastical Establishment, to fill an existing vacancy.

H. H. RISLEY,

Secretary to the Government of India.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

CIVIL VETERINARY ADMINISTRATION.

Simla, the 4th November, 1903.

No. 1977—10-21.—Mr. E. W. Oilver, M. R. C. V. S., Superintendent, Government Cattle Farm, Hissar, on being relieved by Veterinary-Captain J. Farmer, on return from furlough, is appointed Superintendent, Civil Veterinary Department, South Punjab.

J. O. MILLER,

Secretary to the Government of India.

Punjab Government Press Lahore—12-11-03—630.

Government Gazette

PUNJAB AND IT'S DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, NOVEMBER 19, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED NOVEMBER 14, 1903.

MILITARY DEPARTMENT.

Simla, the 13th November, 1903.

JUDICIAL.

No. 1093.—In exercise of the powers conferred by section 7, sub-sections (*1*) and (*2*), of the Indian Tolls (Army) Act, 1901 (II of 1901), the Governor-General in Council is pleased to make the following rules, namely:

Rules.

1. Save as hereinafter otherwise provided in rule 2, where exemption from the payment of tolls is claimed under the Indian Tolls (Army) Act, 1901 (II of 1901), in respect of any person or body of persons or any property, a pass, in the form annexed, shall be presented on the demand of the person authorised to demand the tolls.

2. (*1*) No passes shall be required in the case of—

(*a*) officers and soldiers of—

(i) His Majesty's Regular Forces,

(ii) any local corps, or

(iii) Imperial Service Troops,

in uniform when on duty or on the march;

(*b*) members of a corps of Volunteers in uniform when on duty or when proceeding to or returning from duty ;

(*c*) officers and soldiers of the Indian Reserve Forces in uniform when proceeding from their place of residence on being called out for training or service or when proceeding back to their place of residence after such training or service ;

(*d*) grass-cutters and other authorized followers of—

(i) His Majesty's Regular Forces,

(ii) any local corps,

(iii) Imperial Service Troops, or

(iv) any corps of Volunteers,

when they accompany any body of such Forces, Troops or Volunteers or any members of such corps on the march ;

(*e*) members of the families of officers, soldiers, or authorized followers of—

(i) His Majesty's Regular Forces, or

(ii) any local corps,

when accompanying any body of troops, on duty or on the march ;

(*f*) prisoners under military escort in uniform ;

(*g*) the horses and baggage, and the persons (if any) employed in carrying the baggage, of any persons specified in any of the foregoing clauses, when such horses, baggage or persons accompany the persons so specified under the circumstances mentioned in those clauses, respectively ;

(*h*) carriages and horses belonging to His Majesty or employed in His Majesty's military service and all persons in charge of or accompanying the same, when conveying any such persons as hereinbefore in this rule mentioned, or when conveying baggage or stores ;

(*i*) animals accompanying any body of troops which are intended to be slaughtered for food or kept for any purpose connected with the provisioning of such troops ; or

(*j*) persons in charge of any carriage, horse or animal exempted under any of the foregoing clauses when accompanying the same under the circumstances mentioned in those clauses respectively.

(2) No passes shall be required in the case of officers of His Majesty's Regular Forces or of any local corps or of any Imperial Service Troops, when travelling on duty though not in uniform :

Provided that the officer so travelling shall furnish in writing to the person authorized to demand toll his name, rank and the nature of the duty on which he is engaged.

3. (*1*) Save as hereinafter provided in sub-rule (*2*) every pass shall be signed by the Commanding Officer of the regiment, corps, or detachment concerned, or by a station staff officer.

(*2*) In the case of members of a corps of volunteers, or of officers and soldiers of the Indian Reserve Forces, every pass shall be signed, in a Presidency-town, by the Commissioner of Police, and, elsewhere, by the District Magistrate, or by such officer as the District Magistrate may authorize in this behalf.

FORM OF PASS.

[*Issued under the Indian Tolls (Army) Act,* 1901 (*II of* 1901).]

This pass is issued subject to the rules on the reverse in respect of the persons and property specified in the annexed schedule, and exempt from the payment of tolls on the occasion of—

Embarking or being shipped at ______________________

Disembarking or being landed at ______________________

Proceeding from to

It will remain in force from up to the __________ 190 .

Schedule.

	Number.	Name of Corps.	Remarks.
PART I.			
Persons.			
Officers			
Soldiers			
Members of volunteer corps			
Grass-cutters employed in service of troops or volunteers ...			
Authorized followers of troops or volunteers			
Members of families of officers, soldiers or authorized followers.			
Persons in charge of horses, carriages, slaughter animals and baggage.			
Prisoners			
PART II.			
Property.			
Horses as defined in the Act*			
Carriages			
Slaughter animals			
Baggage			

* "Horse" includes mule and any beast of whatever description which is used for burden or draught or for carrying persons. Section 2, clause (*c*).

(Sd.)

Place __________ .
Date __________ .

Commanding Officer of
Station Staff Officer at
District Magistrate at
Officer authorized by District Magistrate at
Commissioner of Police at

Endorsement.

[Here enter rules 1 to 3.]

VOLUNTEER CORPS.

APPOINTMENT.

1st Punjab Volunteer Rifles.

No. 1105.—William Rowan Wilson, Gentleman, to be Second-Lieutenant, *vice* Smithe, promoted.

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

RAILWAYS.

NOTIFICATION.

Simla, the 12*th November,* 1903.

No. 414.—It is hereby notified for general information that His Majesty's Secretary of State for India has sanctioned the construction by the Southern Punjab Railway Company, as an integral part of their system of a line of railway on the 5′ 6″ gauge from McLeodganj Road Station on the Southern Punjab Railway *viâ* Fazilka and Ferozepore to Ludhiana Station on the North-Western Railway, a distance of about 162 miles.

A. BRERETON,
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION ROADS AND BUILDINGS.

NOTIFICATION.

Simla, the 9*th November,* 1903.

No. 407.—Mr. J. D. Stuart, Assistant Engineer, 1st Grade, Punjab, is permanently transferred to Burma.

SIDNEY PRESTON,
Secretary to the Government of India.

Punjab Government Press, Lahore—19-11-03—630.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, NOVEMBER 26, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE SUPPLEMENT TO THE GAZETTE OF INDIA, NOVEMBER 7, 1903.

NO. 24—89-2.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

EMIGRATION.

Simla, the 3rd November, 1903.

RESOLUTION.

The Government of India have received intimation from His Majesty's Secretary of State for India that the Legislature of Southern Rhodesia has passed an Act similar to the Cape Colony Immiglation Restriction Act, 1903, issued by the Government of Cape Colony, extracts from which were published in Resolution No. 4—2-4, dated the 20th February 1903. The more important provisions of this Law, which is entitled the "Immigration Restriction Ordinance, 1903," are extracted below for general information.

* * * * * * * *

2. In the interpretation of this Ordinance, if not inconsistent with the context, the expression "Prohibited Immigrant" shall, subject to the provisions in the next succeeding section contained, mean and include—

(1) Any person who is not in possession of visible means of support or is likely to become a public charge.

* * * * * * * *

(5) Any person who, if asked to do so by any duly authorized officer, shall be unable by reason of deficient education to write out and sign with his own hand in the characters of any European language an application to the satisfaction of the Administrator.

(6) Any person who from information officially received by the Administrator from or through the High Commissioner or the Government of any British or Portuguese Colony in South Africa, is deemed by him to be an undesirable.

3. The provisions of this Ordinance shall not apply to—

* * * * * * * *

(1) (*d*) The wife and minor child of any person who is permitted to immigrate into Southern Rhodesia under the provisions of this Ordinance;

(2) British subjects or other persons of any nationality whom the Administrator, with the concurrence of the Executive Council, shall determine to admit as agricultural or domestic servants, skilled artizans, mechanics, workmen or miners, subject to such rules, regulations or restrictions as shall be fixed and appointed in respect thereto, with the assent of the High Commissioner;

(3) Persons domiciled in South Africa.

4. Subject to the provisions of this Ordinance, it shall be unlawful for any "prohibited immigrant" to immigrate into Southern Rhodesia.

5. No person shall aid or assist any person to immigrate into Southern Rhodesia in contravention of the provisions of this Ordinance.

6. The Administrator may, with the advice of the Executive Council, make regulations—

* * * * * * * *

(*e*) to prescribe penalties for the contravention of any such regulations, provided that no penalty in respect of any one contravention shall exceed £ 100 or, in default of payment thereof, imprisonment with or without hard labour for a period not exceeding twelve months or imprisonment with or without hard labour without the option of a fine for a period not exceeding six months.

7. Any person immigrating into Southern Rhodesia in violation of the provisions of this Ordinance or any regulations duly framed thereunder, shall be liable—

(1) to be removed from within its limits, and

(2) to be kept in such custody as may by regulation be prescribed pending such removal.

8. Any person who aids or assists any person in the contravention of any of the provisions of this Ordinance, shall be liable for each offence to a penalty not exceeding Rs. 50, and in default of payment to imprisonment for a period not exceeding three months with or without hard labour, or to both such penalty and such imprisonment.

9. Any person making any false statement in order to procure any certificate or recommendation for the purpose of this Ordinance shall, upon conviction, be liable to—

(1) a fine not exceeding £ 50: and, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months; or

(2) such imprisonment without the option of a fine; and

(3) in addition, to be removed from within Southern Rhodesia to beyond the borders thereof at any point.

Secretary to the Government of Madras.
" " " Bombay.
" " " Bengal.
" " " United Provinces.
" " " Punjab.
" " " Burma.
The Hon'ble the Chief Commissioner, Central Provinces.
The Hon'ble the Chief Commissioner, Assam.
The Chief Commissioner, Coorg.
" " Ajmere-Merwara.
The Hon'ble the Resident at Hyderabad.
" " Chief Commissioner, North-West Frontier Province.
The Hon'ble the Agent to the Governor-General in Baluchistan.

ORDERED, that a copy of the above Resolution be forwarded to the Local Governments and Administrations noted in the margin, for information and guidance, and to the Home and Foreign Departments for information.

ORDERED, also, that a copy be published in the *Gazette of India* for general information.

J. O. MILLER,
Secretary to the Government of India.

FROM THE "GAZETTE OF INDIA," DATED NOVEMBER 21, 1903.

HOME DEPARTMENT.

NOTIFICATION.

PUBLIC.

Calcutta, the 19th November, 1903.

No. 3518.—In exercise of the power conferred by Section 17 of the Indian Arms Act, 1878 (XI of 1878), the Governor-General in Council is pleased to direct that the following clause shall be substituted for the first paragraph, down to the proviso, of Rule VI-6 of the Rules published with the Notification of the Government of India in the Home Department, No. 518, dated the 6th March 1879, as amended by subsequent Notifications :—

6. Licenses to import or export arms, other than cannon or rifles not excepted as in the next foregoing rule, ammunition or military stores by sea, may be granted at the ports of Calcutta, Madras, Bombay, Rangoon, Calicut, Karachi, Aden, and for no other ports except that at the ports of Akyab and Moulmein licenses for the import of saltpetre and lead only may be granted, and at the port of Tuticorin licenses may be granted only for the import of sulphur proved to the satisfaction of the Local Government to be intended for *bonâ fide* agricultural purposes. They shall be granted by the Commissioners of Police in respect of the Presidency towns and of Rangoon, by the Magistrate of the district in respect of Calicut, Moulmein, Akyab, and Karachi, and by the Local Government in respect of Tuticorin. The fee payable in respect of each such license shall be ten rupees, except in respect of licenses for the import of sulphur at Tuticorin, which may be granted without payment of any fee as provided in Rule 16-C, and the licenses shall be in the Forms III and IV appended to these rules. It shall be a condition of such licenses that the arms, ammunition, or military stores imported shall either be deposited in a warehouse appointed under Section 15 of the Sea Customs Act, 1878, or in a warehouse licensed under Section 16 of the same Act, and sanctioned in this regard under Section 7 of the Indian Arms Act, 1878, or that they shall be at once despatched to their destination under a separate license to transport.

H. H. RISLEY,

Secretary to the Government of India.

Punjab Government Press, Lahore—26-11-03—630.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, DECEMBER 3, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED NOVEMBER 28, 1903.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

FORESTS.

Dated Calcutta, the 27th November 1903.

No. 1375-*F.*-94-7.—The following transfers are made in the interests of the public service :—

(i) Mr. J. E. Barrett, Deputy Conservator of Forests, from Assam to the Punjab.

(ii) Mr. E. M. Coventry, Deputy Conservator of Forests, from the Punjab to Assam.

J. O. MILLER,

Secretary to the Government of India.

MILITARY DEPARTMENT.

Fort William, the 27th November 1903.

LONDON GAZETTE.

No. 1126.—The following extracts are published for general information :—

"*London Gazette,*" *dated* 30*th October* 1903, *pages* 6619-20.

INDIA OFFICE,

30*th October* 1903.

The King has approved of the following promotions among officers of the Indian Army, Indian Medical Service, and Indian Army Departments, and admissions to the Indian Army made by the Government of India :—

*　*　*　*　*　*　*　*

INDIAN MEDICAL SERVICE.

*　*　*　*　*　*　*　*

Captains to be Majors.

Dated 28th July 1903.

BENGAL ESTABLISHMENT.

*　*　*　*　*　*　*　*

Edmund Wilkinson.

George Francis William Ewens, M. D.

*　*　*　*　*　*　*　*

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

Punjab Light Horse.

No. 1134.—Second-Lieutenant Frank Waverling Schonemann resigns his commission.

*   *   *   *   *   *   *   *

North-Western Railway Rifles.

No. 1142.—Captain Charles John Keene, V. D., from the unattached list, to be Major, with effect from the 7th November 1893, *vice* Winmill, transferred to the supernumerary list.

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

RAILWAYS.

NOTIFICATION.

Calcutta, the 24th November 1903.

No. 424.—Mr. J. E. Lacey, Examiner of Accounts, attached to the office of the Examiner of Public Works Accounts, Punjab, is appointed to officiate as Assistant Accountant General, Public Works Department.

A. BRERETON,
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATIONS.

Calcutta, the 23rd November 1903.

No. 421.—Mr. W. C. Ross, Assistant Engineer, 2nd Grade, Punjab, is permitted to resign the service of Government, with effect from the afternoon of the 15th October 1903.

The 26th November 1903

No. 429.—Rai Bahadur Gungaram, C.I.E., Executive Engineer, 1st Grade, Punjab, has, at his own request, been permitted to retire from the service of Government, under the provisions of Article 465 of the Civil Service Regulations, with effect from the 19th October 1903.

SIDNEY PRESTON,
Secretary to the Government of India.

Punjab Government Press, Lahore—3-12-03—630.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, DECEMBER 10, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED DECEMBER 5, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

JUDICIAL.

Calcutta, the 1st December 1903.

No. 2027.—With effect from the 11th May 1903, the following officers are confirmed :—

(*a*) as Cantonment Magistrates—

Captain W. A. Bailey, Officiating Cantonment Magistrate.

* * * * * * *

(*b*) as Assistant Cantonment Magistrates—

Captain F. G. A. Wimberley, Officiating Cantonment Magistrate, Umballa.

* * * * * * *

Major W. A. L. Cowie, Officiating Cantonment Magistrate.

The 3rd December 1903.

No. 2057.—The services of Major W. A. L. Cowie, Assistant Cantonment Magistrate, are placed at the disposal of the Government of the Punjab for employment as Assistant Cantonment Magistrate.

ECCLESIASTICAL.

The 3rd December 1903.

No. 561.—The Reverend Frederick Charles Buckwell has been appointed a Chaplain on probation on the Bengal (Lahore) Ecclesiastical Establishment to fill an existing vacancy.

H. H. RISLEY,

Secretary to the Government of India.

MILITARY DEPARTMENT.

Fort William, the 4th December 1903.

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS AND RESIGNATIONS.

North-Western Railway Rifles.

No. 1169.—Major Frederick Robert Bagley to be Lieutenant-Colonel, with effect from the 7th of November 1903, *vice* Jacob, transferred to the supernumerary list.

Lieutenant John James Inglis to be Captain, *vice* White, transferred to the supernumerary list;

Thomas William Wrench, Gentleman, to be Second-Lieutenant, *vice* Chase, promoted;

Ernest Alexander Scott, Gentleman, to be Second-Lieutenant, *vice* Stowell, promoted,—with effect from the 18th November 1903.

E. G. BARROW, *Major-General,*
Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.

IRRIGATION, ROADS AND BUILDINGS.

NOTIFICATIONS.

Calcutta, the 1st December 1903.

No. 436.—Bawa Budh Singh, a qualified student of the Thomason Civil Engineering College, Rurki, is appointed to the Provincial Service of the Engineer Branch of the Public Works Department as an Assistant Engineer, 3rd Grade, with effect from the 27th September 1903, and is posted to the Punjab.

The 2nd December 1903.

No. 441.—The services of Colonel J. W. Thurburn, C.S.I., R.E., Chief Engineer, 1st Class, and Secretary to the Government of the Punjab in the Public Works Department, are replaced at the disposal of the Military Department, with effect from the 3rd December 1903, under the provisions of Articles 616 and 619 (*a*) of the Civil Service Regulations.

TELEGRARHS.

The 2nd December 1903.

REVISED RULES AND RATES FOR INLAND TELEGRAMS.

No. 442 —In exercise of the powers conferred by section 7 of the Indian Telegraph Act, 1885 (XIII of 1885), the Governor-General in Council is pleased to direct that on and with effect from the 1st January 1904 the following alterations shall be made in the rules under the said Act published with the notification of the Government of India in the Public Works Department (Telegraphs), No. 245, dated the 25th of June 1897, as subsequently amended, namely—

The following rules in section II shall read as follows :—

Rule 18, *Address.*—The address includes the name of the office to which the telegram is to be transmitted, the name, or designation (or both), and the address of the addressee, and at the sender's option, his own name, or designation (or both), and his address. In the case of Deferred telegrams, no other words can be included in the number of words allowed free. The name of the office to which the telegram is to be transmitted is counted as one word irrespective of the actual number of words and initials which it may contain. For instance "*Malia-Hatina, B. G. F. P.*" will count as one word. Care should be taken that the office to which the telegram is to be transmitted is written as given in the list of Telegraph Offices published in the *Telegraph Guide.*

Rule 34, *Sender's name or designation.*—The sender's name or designation may be in an abbreviated form or may be omitted altogether. A telegram cannot be sent by several persons in their separate names; it must be in the name of only one individual or firm; it may, however, be sent by a party acting jointly having a recognised collective capacity, but the designation or style of such party must be used, not their several names.

Rule 49, *Chargeable words.* - All that the sender writes in his telegram to be transmitted is included in calculating the charge with the exception of the Special Instructions referred to in Rule 15, the name of the Telegraph Office of origin and, in the case of Deferred telegrams six words in the Address (as defined in Rule 18), all of which are transmitted free. No other words can be transmitted unless paid for.

Rule 60, *Classes.*—There are three classes of telegrams: *Urgent, Ordinary and Deferred.* These classes apply equally to State and Private telegrams. The corresponding charges between any two offices in India or Burma are as follows :—

Class.	Unit No. of words.	Unit rate.	Each additional word.	Address.
		Rs. A. P.	Rs. A. P.	
Urgent	16	2 0 0	0 4 0	Charged for.
Ordinary	16	1 0 0	0 2 0	Ditto.
Deferred	4	0 4 0	0 1 0	Six words free.

NOTE—For definition of address, see Rule 18.

Rule 91.—The Sender of a Private telegram, or of a State telegram, addressed to a person other than a British Government Official, can prepay a reply, but the amount so prepaid shall be not less than four annas, or more than two rupees, and must not contain any fraction of an anna. The sender of a Reply paid telegram should write the Special Instruction (R. P.) followed by the amount paid, thus—R. P. Rs. on the form in the space marked *Offical Instructions* [see Rule 11 (*d*)]. These words are not charged for.

Rule 114 —The Address of telegrams to be conveyed beyond the telegraph lines should be written as follows :—

(*a*) If the message is to be posted from the nearest Telegraph Office.

To *(Office)* Gya. From (*Office*) Calcutta.

Official Instructions (Post).

To (*Person*), John Doe, Esquire, Sherghotty. From (*Person*) Jones.

(*b*) If the message is to be sent by *Express*.

To (*Office*) Hoogly Point. From (*Office*) Calcutta.

Official Instructions (X. P., Rs. two.)

To (*Person*), John Doe, Esquire, Nynan. From (*Person*) Jones.

The instructions *Post* or *X. P. Rs. two* are not charged for, *vide* Rule 17.

Rule 117.—*Inland telegrams posted from India to Ceylon.*—Inland telegrams to be posted to Ceylon may be addressed to Tuticorin, from which place a daily mail boat leaves for Colombo.

EXAMPLE.

To (*Office*) Tuticorin. From (*Office*) Calcutta.

Official Instructions (Post).

To (*Person*), Young, Oriental Hotel, From (*Person*) W. Collins.
Colombo.

Text.—Start by first steamer.

The charge for such a telegram is the usual inland rate according to class, and, as stated in Rule 116, there is no charge for postage.

The instruction *Post* is also not charged for, *vide* Rule 17.

Rule 118.—*Inland telegrams posted from Indian ports.*—An Inland telegram telegraphed to an Indian port to be posted under Rule 116 to a place beyond Indian limits must have the name of the port entered in the Address, and the instructions *Post* or *Post Registered* [Rules 11 (*d*), 15 and 17] in the space marked *Official Instructions.*

EXAMPLE.

Class (Deferred, Ordinary or Urgent).

To (*Office*) Bombay. From (*Office*) Calcutta.

Official Instructions (*Post*).

To (*Person*). From (*Person*).
Mrs. Johnson. Johnson.
20 Cambridge Terrace, Hyde Park, London.

Text.—Afraid my letter missed mail. Am quite well.

The charge for such a telegram would be the usual Inland rate according to the class (Urgent, Ordinary or Deferred at Sender's choice) *plus* one anna for postage under Rule 116. If the Sender desires the message to be registered before being posted, he should insert the instruction *Post Registered* (or P. R.) [Rules 11 (*d*), 15 and 17] in the space marked *Official Instructions.* The charge for postage and registration would then be three annas under Rule 116.

NOTE.—Telegrams te be forwarded by post *Registered* are received at the General Post Office, Bombay, up to within three hours of the time of sailing of the Homeward Mail. If not to be registered, they will be posted if received within 1½ hours of the time of sailing.

Rule 127.—*Rates for Press telegrams.*—The following are the rates charged for Press telegrams :—

Class.	Unit No. of words.	Unit rate.	Each additional six words.	Address.
		Rs. A. P.	Rs. A. P.	
Ordinary	48	1 0 0	0 2 0	Charged for.
Deferred	48	0 8 0	0 1 0	Six words free.

Though classed for the purposes of the tariff schedule as "Ordinary" and "Deferred" Press messages will receive the privilege of being despatched as if they were classed "Urgent" and "Ordinary," respectively. Multiple Press messages will be charged for as in Rule 109 whether all the addressees are in the same town or not.

NOTE.—For definition of the address, see Rule 18.

Rule 128-*VIII.*—A single Press telegram must not exceed 240 words (5 units of charge). Long news messages must be broken up into separate telegrams, all of which must be numbered and each of which, except the last, must contain the words *More to follow.* These words and the numbers should be written by the sender in the space left in the telegram for *Official Instructions*, and they will not be charged for.

Rule 133, *Delivery.*—Press telegrams of any class are sent out for delivery as soon as received, by day or by night.

The 3rd December 1903.

No. 446.—The following is published for general information :—

No. 1621 C. W.—T.

GOVERNMENT OF INDIA, PUBLIC WORKS DEPARTMENT, CIVIL WORKS, TELEGRAPH.

RESOLUTION.

Calcutta, the 2nd December 1903.

Revision of the Indian Inland Telegraph Tariff.

Under the orders contained in Public Works Department Resolution No. 410-442 T., dated the 14th November 1881, the following tariff was introduced for Inland Telegrams from the 1st January 1882 :—

	Unit No. of words.	Unit rate.	Each additional word.	Address.
		Rs. A. P.	Rs. A. P.	
Local messages ... ... (*i.e.*, messages for transmission within a radius of 6 miles from a Central Telegraph Office.)	8	0 4 0	...	Free.
Urgent messages	8	2 0 0	0 4 0	"
Ordinary "	8	1 0 0	0 2 0	"
Deferred " ... ... (to be delivered on the following morning, generally by post).	8	0 8 0	0 1 0	"

Press Messages.

	Unit No. of words.	Unit rate.	Each additional 4 words.	Address.
		Rs. A. P.	Rs. A. P.	
Urgent	32	2 0 0	0 4 0	Free.
Ordinary	32	1 0 0	0 2 0	"
Deferred	32	0 8 0	0 1 0	"

2. In consequence of the rapid extension of telephonic communications, the special tariff for local messages was discontinued from the 1st July 1886.

3. Since 1892 the Government of India have at different times had under consideration numerous proposals for a reduction of the tariff and for offering increased facilities for telegraphic communication, but until recently the state of the Imperial Finances precluded the acceptance of the capital expenditure necessary to cope with the increased traffic expected or the immediate loss of revenue involved.

As a first step towards the realisation of the scheme, the system of delivery of deferred messages by messengers between daybreak and 9 P.M. was introduced from the 1st April 1897.

The question of reduction of the rates has, however, occupied the attention of the Government of India, and His Excellency the Governor-General in Council has now been pleased to direct that the Inland Telegraph Tariff shall be revised on the following scale. The existing classification will be adhered to, for the present, except in respect of press messages which will be classed as "Ordinary" and "Deferred" under the new rates, but will receive the privilege of the next higher class as regards priority of transmission :—

Private and State Messages.

Class.	Unit No. of words.	Unit rate.	Each additional word.	Address.
		Rs. A. P.	Rs. A. P.	
Urgent	16	2 0 0	0 4 0	To be charged for.
Ordinary	16	1 0 0	0 2 0	Ditto.
Deferred	4	0 4 0	0 1 0	Six words free.

Press Messages.

Class.	Unit No. of words.	Unit rate.	Each additional 6 words.	Address.
		Rs. A. P.	Rs. A. P.	
Ordinary	48	1 0 0	0 2 0	To be charged for.
Deferred	48	0 8 0	0 1 0	Six words free.

For multiple press messages, a single charge at the above rates will be made for the first addressee, and a copying fee of 4 annas per 100 words or fraction thereof will be charged for each addressee after the first, whether he is in the same town or not.

4. The main features of the revised tariff are the abolition or restriction of the present uneconomical free address and the introduction of a 4-anna deferred telegram.

The concession to the senders of urgent and ordinary messages will be found in the additional words which can be put into the text of a message at the unit charge by the limitation of the words in the address—an advantage which will be especially appreciated by those who employ registered addresses, while the introduction of a 4-anna Deferred telegram will bring the use of the telegraph within the reach of a far wider class than has hitherto enjoyed it.

The concession to the press is considerable, as the charge for a message will be greatly reduced, six words being sent for the charge now made for four, and multiple messages being delivered at any town for a copying fee only.

5. The revised tariff and the rules relating thereto will come into force on and from the 1st January 1904 They are published in Public Works Department Notification No. 442 Telegraphs, dated 2nd December 1903.

ORDER.—Ordered that this Resolution be communicated to the Director General of Telegraphs, for information and guidance, and to the Foreign, Finance and Commerce, Home, Legislative, Military, and Revenue and Agricultural Departments, to the Local Governments and Administrations noted on the margin, and to the Chambers of Commerce in Bengal, Madras, Bombay, Rangoon, Karachi, and Upper India, for information. Also that it be published in Part I of the *Gazette of India* for general information.

The Governments of Madras and Bombay, Public Works Department, General and Railway Branches.
The Governments of Bengal, the United Provinces of Agra and Oudh and the Punjab, Public Works Department.
The Government of Burma, Public Works Department, General and Railway Branches.
The Honourable the Chief Commissioners of the Central Provinces, Assam, and Coorg.
The Honourable the Resident at Hyderabad.
The Honourable the Agents to the Governor-General for Central India, Rajputana and Baluchistan.
The Honourable the Agent to the Governor-General and Chief Commissioner, North-West Frontier Province.
The Accountant-General, Public Works Department.
The Director-General of Military Works.
The Consulting Engineers to the Government of India for Railways, Calcutta, Lucknow, and Assam.
The Managers, North-Western, Oudh and Rohilkhand and Eastern Bengal State Railways.

SIDNEY PRESTON,

Secretary to the Government of India.

Punjab Government Press, Lahore—10-12-03—630.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, DECEMBER 17, 1903.

PART II.

Republications from the "Gazette of India."

FROM THE "GAZETTE OF INDIA," DATED DECEMBER 12, 1903.

HOME DEPARTMENT.

NOTIFICATIONS.

PUBLIC.

Calcutta, the 11th December 1903.

No. 3739.—The following letters containing certain proposals for reducing the territorial jurisdiction of the Lieutenant-Governor of Bengal by transferring portions of it to adjacent Provinces, are published for general information:—

No. 3678, dated Calcutta, the 3rd December 1903.

From—H. H. RISLEY, Esquire, C. I. E., Secretary to the Government of India,

To—The Chief Secretary to the Government of Bengal.

I AM directed to address you on the subject of the desirability of reducing the territorial jurisdiction of the Lieutenant-Governor of Bengal with the object of lightening the excessive burden now imposed upon the Government by the increase of population, the expansion of commercial and industrial enterprise, and the growing complexity of all branches of the administration.

2. As long ago as 1868 Sir Stafford Northcote drew attention to the greatly augmented demands that the outlying portions of Bengal appeared to make on the time and labour of those concerned in the government of the province. He referred to the famine of 1866 as furnishing evidence of the defects of the existing system of government when exposed to the ordeal of a serious emergency, and among other methods of relieving the overtasked administration, he suggested the separation from Bengal proper of Assam and possibly of Orissa. In the discussions that followed the question was very thoroughly examined by a number of high authorities, and eventually it was decided that Orissa should remain attached to Bengal, but that Assam proper and certain other districts on the north-eastern frontier of Bengal should be formed into a separate Chief Commissionership directly under the Government of India. At the time when this decision was arrived at, the population of Bengal as then constituted was believed to be between 40 and 50 millions. The Census of 1872 showed it to be nearly 67 millions. With these figures before him Sir G. Campbell said, as Sir William Grey had said five years before,

Despatch No. 10, dated 16th January 1868.

that the territories under the Lieutenant-Governor of Bengal were more than one man unaided could properly govern. Since then the population of Bengal, as it now stands, has risen to 78½ millions, and this increase has been accompanied by a considerable development of the material resources of the country, and a great extension of railways and other means of communication, while the spread of English education and the wider diffusion of the native press tend to increase litigation, to demand more precise methods of administration, to give greater publicity to the conduct of officials, and in every way to place a heavier strain upon the head of the Government and upon all ranks of his subordinates. In the opinion of the Government of India, the time has come when the relief of the Bengal Government must be regarded as an administrative necessity of the first order. And that relief can be afforded, not as has been suggested on several previous occasions, by organic changes in the form of Government, but only by actual transference of territory. It is unnecessary to refer to the circumstances which have brought about the great concentration of peoples (with a corresponding growth of administrative problems) in the deltaic regions that constitutethe greater par of Lower Bengal. The fact is sufficient that at the present time the Lieutenant-Governor of Bengal is called upon to administer an area of 189,000 square miles (151,000 British territory) with a population of 78,493,000 (74,744,000 in British territory), and a gross revenue of 1,137 lakhs (land revenue 505 lakhs).

3. The Government of India believe it to be beyond dispute that this is too heavy a burden for any one man, and that it cannot be adequately discharged save at the expense of efficiency. A Lieutenant-Governor of Bengal, if he spent the whole of the available season of the year in touring, could yet only succeed, during his term of office, in visiting a portion of his vast charge. As a matter of fact, it will commonly be found that places so important as Chittagong, Dacca, Cuttack, and Ranchi receive not more than a single hurried visit within the five years. The Lieutenant-Governor is generally expected to be in Calcutta during the winter months, from November to April, and there his time is taken up not only by social duties, which are onerous and which tend continually to increase, but by official or ceremonial functions in which he is called upon to play a leading part; while personal interviews occupy a large portion of his time. He is only able to undertake short and hurried excursions in his province at this, which is the most favourable season of the year: and the time that he devotes to his departments and to provincial administration is constantly being encroached upon by great Municipal and other problems. In the remaining seasons of the year he is unable to make up the deficit for which Calcutta has been responsible. The result of both these features, *viz.*, the hurried and necessarily incomplete tours of the Lieutenant-Governor through his province, and his overwhelming pre-occupations while he resides in the capital, is that in Bengal the work of Government has come to be less personal in its character than in any other Indian administration. Anywhere in India this would be a grave defect, but it is worst of all in a province where already, owing to the existence of the Permanent Settlement, there is wanting that link of close knowledge and mutual understanding between the district officer and the people that is supplied by an intimate familiarity with the Land Revenue settlement and administration. Thus in the province where personal rule is perhaps must required, there is least of it, and where the officers know least of the people, the Government knows least of its officers. This is a state of affairs that cannot be revolutionised in a moment, and perhaps cannot be revolutionised at all. But the one course that is practicable is to reduce the gravity of the mischief by curtailing its extent, and to afford the opportunity for increased contact between the administration and the people by easing the former's burden. Already in 1874 the same line of reasoning led, in spite of many contemporary protests, to the severance of Assam from Bengal. The result has undoubtedly been beneficial to both parties, and the experiment has been justified. The time has now come when it should be repeated on a larger scale. No question of loss of prestige or even of temporary sacrifice of advantage ought to stand in the way of a statesmanlike and far-sighted handling of the question. As in 1874, the main criterion of the action of Government should be the good of the districts and the people whom it is proposed to transfer, but behind this stands the paramount consideration that transference on a large scale has become an absolute necessity.

4. This curtailment can be effected only in two directions. The neighbouring provinces to Bengal are the United Provinces on the north-west, the Central Provinces on the west and south-west, Madras on the south, and Assam on the north-east and east Proposals to take away Behar and add it to the area now known as the United Provinces have been put forward in former days, but are not now likely to be revived. Moreover, the Government of the United Provinces with 112,000 square miles (107,000 British territory) and 48,493,000 people (47,691,000 in British territory) to administer, has already in respect both of area and population a sufficiently heavy charge. Nor would the Government of India propose (apart from special reasons connected with the circumstances of the border districts) to add to the area or responsibilities of Madras. That Government is fully occupied with 151,000 square miles (141,000 British territory) and 42,397,000 people (38,209,000 in British territory).

5. There remain then the Central Provinces and Assam. Both are young and growing administrations, capable of sustaining a heavier charge. Both will profit rather than lose by an increase of responsibilities. It is in these two directions that relief to Bengal must be sought and a readjustment of boundaries applied.

6. In considering the question of possible transfers of territory from Bengal to the Central Provinces, the Governor-General in Council will deal first with the relatively less important area of Chutia Nagpur. Chutia Nagpur consists of five British districts and a number of Tributary Mahals, ruled by small Native Chiefs. The total area is 43,000 square miles (27,000 British territory), population 5,901,000 (4,900,000 in British territory), land revenue of British districts 7⅓ lakhs. A large proportion of the inhabitants of this country consists of comparatively primitive people of aboriginal descent who supply labourers to the coal-mines of Bengal, the tea-plantations of the Western Duars and Assam, and the jute or cotton mills on the Hughli. As far back as 1887, it was suggested that Chutia Nagpur should be transferred to the Central Provinces, but the proposal excepted the two districts of Hazaribagh and Manbhum, the former bordering upon Behar and the latter upon Bengal, because of their greater affinities with Bengal characteristics. If Hazaribagh and Manbhum are both deducted from the area to be transferred to the Central Provinces, then the latter would receive in British territory 15,800 square miles and 2,421,000 people. If Manbhum alone is left to Bengal, the transfer to the Central Provinces would affect 22,000 square miles and 3,599,000 people. Bearing in mind the imperative necessity of affording relief to Bengal, the Government of India are disposed, other things being equal, to advocate the transfer to the Central Provinces of the larger rather than of the smaller area. On this question I am to invite a full expression of the Lieutenant-Governor's opinion.

7. The arguments in favour of the transfer may be briefly summarised as follows :—

(i) In character and state of development the people of Chutia Nagpur correspond much more closely with those in the Central Provinces than with the population of Bengal.

(ii) The Bengal form of administration is too highly developed, too legalised, and too impersonal for backward tracts and primitive hill-tribes. This view is borne out by the experience of a series of outbreaks in recent years and by the difficulties met with in dealing effectually with the land tenures of this part of the province.

8. The considerations on the opposite side may be stated thus :—

(i) It will probably be represented that Chutia Nagpur is one of the few attractive Divisions in Bengal, the stations of Ranchi and Hazaribagh being situated 2,000 feet above the sea and possessing considerable climatic advantages. The Bengal Government will doubtless not fail to give to this view the importance to which it is entitled ; but it is clearly not one that should exercise a determining effect in the decision of the Government of India.

(ii) There is a further argument that may perhaps be used in favour of leaving the District of Hazaribagh with Bengal. This is the existence in that district of some of the most valuable present or prospective coal-fields of Bengal (*e. g.* Karharbari and Karanpura). The connection of this industry lies almost exclusively with Calcutta, and therein may be found a possible reason for the continuance of the present administrative tie. It is conceivable that the solution may be found in transferring a portion only of the district, so adjusted as to leave the principal coal-fields with Bengal. The same argument is capable of being used, although with less force, of the District of Palamau (containing the coal-field of Daltonganj) ; and the Lieutenant-Governor will know what value to attach to a plea for the association of these northern districts of Chutia Nagpur with Behar.

(iii) It may also perhaps be urged that Ranchi is nearer to Calcutta than to Nagpur and that difficult ranges of hills separate Chutia Nagpur on the west from the Central Provinces. The fact is that Chutia Nagpur is more or less inaccessible from most directions. No administrative rearrangement can for the present alter this material fact. What the Government of India are concerned with, however, is the relief of its administrative rather than its physical isolation. If the people cannot be brought nearer to Government, it is at least desirable to bring Government nearer to them.

9. On a careful consideration of the foregoing arguments the Government of India are disposed to favour the transfer of Chutia Nagpur (except the District of Manbhum, and possibly part or the whole of Hazaribagh) with its Tributary Mahals to the Central Provinces. The only modification in this arrangement that may be required will be contingent upon the decision that may be arrived at concerning the Uriya-speaking peoples. If these are all to be concentrated, as is proposed below, in a single tract to be administered, not by the Central Provinces, but by Bengal, then (supposing geographical conditions to render this practicable) it may be desirable to exclude such Uriya-speaking elements as there are in Chutia Nagpur, and to leave them with Bengal. They are contained almost

exclusively in the District of Singbhum, where there are 100,000 Uriya-speaking people out of a total population of 613,000. In the centre of that district 235,000 people speak a Munda language, named Ho, which in course of time will probably give place to Uriya. The retention of Singbhum by Bengal would be facilitated by the existence on its eastern border of the large Bengali thana of Ghatsila (220,000 population).

10 I am next to pass to a discussion of the case of Orissa. The total area of Orissa is 24,000 square miles (9,800 British territory), population 6,290,000 (4,343,000 in British territory), land revenue 28 lakhs. A glance at the map will show that, while under existing conditions Orissa is somewhat of a projection from the south-western corner of Bengal, if the proposals already made as regards Chutia Nagpur are carried out, its physical detachment from the remainder of that province will be still more pronounced. These circumstances, added to others which will be mentioned, have always brought the case of Orissa under examination when the question of relief to Bengal has been raised, and its transfer to the Central Provinces has been suggested on several occasions. The reasons urged in favour of the change are the same now as they were then. They may be stated and criticised as follows:—

(i) There is a historical connection between Orissa and the Maratha tracts of the Central Provinces. This argument might be of some use as supporting other considerations that pointed in the same direction. But it will be generally admitted that it has no independent value, since the question now under consideration is concerned not with ancient history, but with present and future needs.

(ii) Orissa is a temporarily settled area (as are the whole of the Central Provinces), while the remainder of Bengal, with the exception of certain tracts in Chittagong which will probably be transferred, is under the Permanent Settlement. This is a very weighty consideration, and the Government of India do not underrate its value. But, in the present situation, wider considerations even than those of Land Revenue settlement and administration must prevail.

(iii) The national tongue of Orissa is Uriya, and as Uriya is the language spoken by 1½ millions of people in the Central Provinces (mainly in Shambalpur and the attached States), therefore it may be contended Orissa ought to be joined to the Central Provinces. The argument from language is, however, equally capable of being used as a still more convincing plea for the union of the smaller Uriya-speaking area with the larger; and it is in this sense that it will presently be employed.

11. On the other hand, the reasons which have always hitherto prevailed against the transfer are as follows:—

(i) Orissa has been for close upon a century under the Bengal administration. The prescription of a century is difficult to break, though not insurmountable. It is believed to be accompanied in the case of Orissa by a very strong feeling on the part of the educated and commercial classes in favour of the existing arrangements. This again is a condition that is capable of being overruled, but that requires a strong case of probable advantage to the severed unit in order to justify the change.

(ii) But in the case of Orissa the strongest argument against any such probable advantage is to be found in the recent completion of the East Coast Railway, which has now brought the province into far closer connection with Calcutta than would ever be possible with the Central Provinces. Cuttack, the capital of Orissa, is distant only 12 hours from Calcutta as against 30 from Nagpur, and even if a connection were made *viâ* Sambalpur, the latter distance would only be reduced by about ten hours. In these circumstances, Orissa now receives from Bengal a degree of attention that it could hardly expect to obtain from the Central Provinces; while the completion of the railway has greatly strengthened the commercial links that already attach the internal and maritime towns of Orissa with Calcutta.

(iii) The argument has sometimes been employed on paper that it would be a good thing to provide the Central Provinces with a maritime outlet. But it is weakened in this case by the fact that Orissa possesses no harbour that is capable of being turned into a port, Chandbally, the only possible claimant, being difficult of approach and comparatively unfrequented.

The balance of argument, as thus stated, appears to the Government of India to be on the whole decisive against the transfer of Orissa to the Central Provinces; although it is not desired to arrive at a final opinion, until the views of the Local Government, who are in a better position to represent local interests and necessities, have been fully heard.

12. The future of Orissa will not, however, be determined exclusively by a consideration of the points that have already been put forward. Other and wider issues are, in the opinion of the Governor-General in Council, involved. They embrace questions of race and language, in addition to or apart from the more arbitrary distinctions of administrative or territorial partition. Uriya has been already referred to as the prevalent language of Orissa both in the plain districts and in the Tributary Mahals. It is also the vernacular of a large surrounding area. This area comprises—

(a) Sambalpur and certain adjacent Feudatory States, now under the Central Provinces.

(b) A part of the Singbhum District of Chutia Nagpur, now under Bengal.

(c) The Ganjam District, now under Madras, in which, out of a total population of 1,689,000, 1,275,000 are Uriya-speaking.

(d) The Ganjam Agency Tracts, also administered by Madras, in which, out of a population of 321,000, 87000, are Uriya-speaking. The majority (157,000) of the people of these tracts speak Khond, a Dravidian language which, as education spreads, is certain to give place to Uriya, while the speakers of Telugu number only 5,800.

(e) The Vizagapatam Agency Tracts, also under Madras, in which, out of a population of 850,000, 409,000 are Uriya-speaking. The Vizagapatam District proper is in a different position, since, out of a population of 2,082,000, only 30,000 are Uriya-speaking, and this area accordingly does not enter into the field of the present discussion.

13. The difficulties arising from the problem thus created have been for years a source of anxiety and trouble to the different provinces concerned. No official complaint has been received from Bengal, because the factor of its Uriya-speaking population has been one with which it has had to deal for a century, and to which it has learned to accommodate itself as best it could. The Central Provinces, on the other hand, have experienced such difficulties in connexion with the administration of Sambalpur, that the Chief Commissioner asked in 1901 to be relieved of that district altogether, and although the Government of India were then unable to comply with the request, they were compelled to rescind a previous decision of 1895, which had proved unworkable in practice, and to restore Uriya as the Court language of Sambalpur. Similarly, the Government of Madras have repeatedly complained of the anxieties imposed upon the administration by the great diversity of languages (Uriya, Tamil, Telugu, Malayalam, Canarese) with which Madras civilians are called upon to cope, and which render the transfer of officers from one part of the Presidency to another a matter in any case of great difficulty and often of positive detriment to the public interest. These disadvantages exercise an injurious effect not only upon the administration, but still more upon the people. Where the population speaking a distinct language and the area over which it is spoken are too small to constitute a substantial portion of a province, the foreign unit is almost of necessity neglected. Under ordinary conditions the Government is unable to retain in it a superior staff who have become acquainted with the local language, and with the local customs which invariably accompany it. It is often impossible to officer the subordinate staff from local sources, and foreigners have to be brought in who are ignorant alike of the people, their language, and their ways. The Government may order that the vernacular shall be the language of the Government offices and Courts; but since neither officers nor clerks know this vernacular properly, compliance with the order is often impracticable and almost always incomplete. Nowhere are these drawbacks more conspicuous than among the Uriya-speaking peoples distributed, as has been pointed out, between three administrations, and a source of constant anxiety to each. Hence in dealing with a question of this kind, it may be that the true criterion of territorial redistribution should be sought not in race but in language. Applying this test in the present case it is doubtful whether any positive distinction can be drawn between the Uriya-speaking peoples of the plains and those of the hills. The Uriya of Sambalpur is described indeed as a hybrid *patois*, as compared with the purer tongue of Orissa. No doubt there is some truth in this. Hillmen always talk a ruder dialect than plain-men, and uncivilised tribes than civilised peoples. But there is reason to believe that in the Eastern half of the Sambalpur District good Uriya is spoken, though in the west it gradually melts into Chhatisgarhi Hindi. In any case practical experience goes to show that the connection between a spoken language and its dialect or its *patois*, is a more potent ground of union than a purely racial difference is one of separation. The Uriya-speaking group in any case emerges as a distinct and unmistakable factor, with an identity and interests of its own.

14. The opinions of the members of this group have, on several occasions, been expressed in no uncertain sound. They entertain, so far as is known, no particular desire for the disruption of existing ties, as compared one with the other; but they entertain the strongest desire for the disruption of all such ties if by these means they can purchase the

much greater advantage of linguistic union. They ask not so much to be taken away from Madras, with whose administration they are not believed to have grounds for complaint, or to be added to or taken away from the Central Provinces, or to remain under or be transferred to Bengal, as to be welded by the link of their common language into a single administrative whole. The Government of India have received a petition from the people of Ganjam in which they speak of themselves as dissociated from their Uriya brethren and of Orissa as "a limb separated from the body," and they pray, not for a patchwork redistribution, but that the Government of India "will be graciously pleased to bring together the scattering divisions inhabited by Uriya-speaking peoples, *i. e.*, Ganjam in Madras, Sambalpur in the Central Provinces, and Orissa in Bengal, under the Government of Bengal or under any one Government and one University." To the same effect is the prayer of Raja Baikuntha Nath of Balasore that "all the districts and States speaking the Uriya language be united together and placed under one common administration, no matter whether under Madras, Bengal, the Central Provinces, or a separate administration." The Government of India have further been informed on the best authority that even those among the people of Sambalpur who are most attached to the Central Provinces "would prefer to sever connection with the province to giving up their mother tongue." It is for unity on the basis of language, not for redistribution on the basis of administrative advantage, that all these memorialists plead. It is not contended that opinions may not be forthcoming on the opposite side. If they exist they will doubtless be evoked by the present discussion. So far, however, as any expression of local views has yet reached the Government of India, it coincides with the independent impression that has been formed by them.

15. On the grounds above stated the Government of India are disposed to unite the whole of the Uriya-speaking peoples, both hill and plain, under one administration, and to make that administration Bengal. In other words, they would add to Orissa the Uriya-speaking tracts of Sambalpur (615,941 Uriya-speaking people out of a total population of 829,698), and its Feudatory States, the Ganjam District (with the possible exception of one taluk in which Uriya is said not to be the prevalent language) and the Ganjam and Vizagapatam Agency Tracts. Such a scheme would solve the question of language once and for all. This change would relieve both the Central Provinces and Madras of a troublesome excrescence upon their administrative system: and it would result in handing over the Uriya problem to one Government alone, on a scale and with a unity that would admit of its being treated with consistency and efficiency.

16. If the objection be raised to this suggestion that, while in the earlier portion of this letter the Government of India advocated relief to Bengal, they are now proposing to add to its burdens, the answer will be found in the far more important changes that will be explained in the remaining paragraphs.

17. The effect of the proposals hitherto sketched on the population of the Central Provinces is shown in the following statement:—

CENTRAL PROVINCES.

	Population in British Territory.	Total Population.	Population in British Territory.	Total Population.
Present Population	9,876,646	11,873,029		
Gains.			=15,616,148	18,613,960
Berar	2,754,016	2,754,016		
Chutia Nagpur (minus Manbhum and Singbhum)	2,985,486	3,986,915		
Losses.				
Sambalpur (minus Phuljhar and Chandarpur, 169,727).	659,971	659,971	=659,971	1,608,391
Five Uriya Feudatories		948,420		
Total population ...			14,956,177	17,005,569

18. The Governor-General in Council now turns to the concluding province which has a claim to gain in any redistribution scheme that may be put forward. It is now nearly 30 years since Assam was severed from Bengal, and 11 years since it received the only territorial addition that has subsequently been made to it. This was the Lushai Hills in 1892. In 1896-97 there was a prolonged discussion as to whether the Chittagong Division should also be transferred to Assam. But, though the project seemed at one time likely to take shape, it was eventually set aside for the time on grounds which have now ceased to have effect. The result is that Assam remains in much the same condition in

respect of boundaries as when it was first created a Chief Commissionership, and is both the smallest and the most backward of the local Administrations. It contains an area of 56,900 square miles (nearly 53,000 British territory), a population of 6,126,000 (5,841,000 in British territory), and a gross revenue of 128 lakhs (land revenue 68 lakhs).

19. The Government of India are aware that the smallness and backwardness of Assam have been appealed to as supplying a sufficient argument against any expansion at all. They are inclined to entertain precisely the opposite view. In their opinion it is to its contracted area, to its restricted opportunities, to its lack of commercial outlet, to its alien services, and to the predominance in its life and administration of a single industrial interest depending in the main upon imported labour, that what has been described as the parochialism of Assam is due. The province requires an impulse forward in all of these directions. It requires territorial expansion in order to give to its officers a wider and more interesting field of work. It requires a maritime outlet in order to develop its industries in tea, oil, and coal. The paying portions of the Assam-Bengal Railway are in the south, and the whole line, if it is to be utilised in the interests of the province, ought to be under a single administration. Assam, moreover, will continue to be handicapped so long as it is dependent for its service upon what it may be fortunate enough to borrow from Bengal. A province that can only offer the prize of one Commissionership, that is remote in locality and backward in development and organization, will not attract the highest type of civilians to its employ. The Government of India regard it indeed as incontestable that, with a service recruited as at present and confined within the present limits, Assam will find extreme difficulty in attaining the level of a really efficient administration; and it is for this reason that, in considering the question of changes, they are impressed with the paramount necessity for making them on such a scale as will remove this fundamental source of weakness, and will, if possible, give to Assam a service of its own, offering a career that will attract and retain men of ability and mark. No temporary opposition in the transferred towns or areas, no artificial agitation or interested outcry, should, in their opinion, be permitted to divert the efforts of Government from the main object, *viz.*, the erection of Assam into a vigorous and self-contained administration, capable of playing the same part on the North-East Frontier of India that the Central Provinces have done in the centre, and that the Punjab formerly did on the North-West. If this end can be attained coincidently with a relief to the overburdened and congested administration of Bengal, the reform should be the more cordially recommended and the more readily approved. The Governor-General in Council will now proceed to explain the means by which he thinks that this object may be secured.

20. The Chittagong Division consists of four Districts with an area of 11,770 square miles, a population of 4,737,000 and a land revenue of 31¾ lakhs. Attached to it is the Native State of Hill Tippera, with an area of 4,000 square miles, and a population of 173,000. It has already been mentioned that the incorporation of these areas with Assam has more than once been under discussion; while a reference to the papers on the last of these occasions, *viz.*, in 1896-97, will show that it was then postponed rather than vetoed, the reasons against its acceptance being mainly of a temporary character, which have since disappeared. There is now a strong consensus of official opinion in favour of the change, and the people of Chittagong themselves, who have previously been opposed to the transfer, are understood to have changed their view and to be largely in favour of the change.

21. The main arguments in its favour, in addition to the above consensus of authoritative opinion, are the following:—

(i) The port of Chittagong has not attained the full development of which it appears to be susceptible under the administration of Bengal. In any case, it cannot have been easy for a Local Government dominated by the interests of a great port like Calcutta, to do much towards promoting the advancement of a humbler rival, situated so short a distance away. The Chittagong Port Trust is in consequence in a somewhat unsatisfactory condition, and it has been necessary to consider special measures for adding to its revenues. If on the other hand Chittagong were added to Assam, these special drawbacks might be expected to disappear. There would be every inducement to the Local Government to develop the port, since the entire interests of the province, financial, industrial, and commercial, would be involved in its welfare. Already the advent of the railway has caused a considerable stir in Chittagong, and the value of land is rising with startling rapidity. The Government of India entertain no doubt that Chittagong, if transferred to Assam, will find a great future awaiting it, and that the port will gain equally with the internal industries of which it is the maritime outlet, and whose produce demands easy and rapid access to the sea. Further, there can be little doubt that Chittagong, even if it did not become the cold weather head-quarters of the Chief Commissioner, must at least receive a great deal of his attention and time.

(ii) The Assam-Bengal Railway will be administered with a greater regard to the interests of the province if it is placed under single instead of divided control. If the heavy expenditure incurred on this line is to be justified, if its mountain sections are to be really utilised in the exploitation of the country, it can only be by a fusion of interests between the upper and lower portions of the line; and to this a single administration will powerfully contribute. The junction between the two portions of the railway is on the verge of being effected; only a small section between Badarpur and Lumding remains to be finished; and then the oil wells of Digboi and Makum, the coal-mines of Margharita, and the tea plantations of the Upper Brahmaputra, will be placed in unbroken connection by rail with the Bay of Bengal.

(iii) There is no distinction, but, on the contrary, the closest resemblance between the condition of the people and the administration in the Chittagong Division, and those in the neighbouring Assam Districts of Sylhet and Cachar. The systems of land settlement and tenure are the same in both areas; the inhabitants are identical in race, religion, and language. The objections which were raised thirty years ago to the absorption of Sylhet and Cachar in Assam have proved to be unfounded; and if those districts were now to be given the option of re-union with Bengal, the Government of India believe that they would decline the offer.

22. To the arguments that have on previous occasions been brought, or that might be brought now, against the change, a sufficient reply is, in the opinion of the Government of India, in each case forthcoming:—

(i) A fear has been expressed that the people of Chittagong would suffer by being subjected to an inferior standard of law and administration. There does not appear, however, to be any ground for this apprehension. For it is certain that there would be no change either in the class of officers employed, or in the administration of the law, while all the operations of Government would receive closer supervision from the Chief Commissioner of Assam than they can possibly meet with from the Lieutenant-Governor of Bengal.

(ii) A similar fear has found vent that Chittagong would be removed from the jurisdiction of the High Court of Calcutta. This also is groundless alarm, for the jurisdiction would remain as now.

(iii) The loss of the control of the Bengal Board of Revenue has also been cited as a serious deprivation. The same thing was said in 1874 of Sylhet and Cachar. Under the present system the Chief Commissioner of Assam acts as Commissioner for those two districts, which do not appear to have suffered under his charge. This system will, of course, cease if Assam is enlarged to the full extent which the Government of India contemplate, and the contrast will then be between administration by a Board of Revenue and administration by a Chief Commissioner as in the Central Provinces. On various grounds the Government of India are disposed to prefer the latter system. In connection with this question it should be noted that in 1896 the members of the Bengal Board of Revenue were themselves strongly in favour of the transfer of Chittagong, and only advocated its postponement until the new settlement had been concluded and the railway finished; while Sir A. Mackenzie wrote in Mr. Bolton's letter of 13th August 1896—"There will be a temporary disadvantage in having to prefer revenue appeals before what will be at first an inexpert tribunal; but the Assam Administration will soon master the subject, specially as the local ministerial establishments, who are familiar with the records, would also be transferred, and the Board of Revenue in Bengal could always be consulted."

(iv) There remains the loss to Chittagong of what Sir A. Mackenzie in the same letter described as "its fractional interest in the Bengal Council." The value of this asset is, in the present conditions, small. Moreover, such as it is, its loss would be more than compensated if Assam (presuming it to receive the larger instead of the smaller expansion under discussion) were to share a seat on the Legislative Council of the Governor-General with the Central Provinces, furnishing a member alternately with that administration.

23. The foregoing proposals will have some effect in extending the possibilities of the development of Assam and diminishing its drawbacks. But in the opinion of the Governor-General in Council they will still fall short of providing it with that which is the real secret of efficient administration, *viz*., a self-contained and independent service. Moreover, the union of the Uriya-speaking people under Bengal will involve a substantial addition to its population in the south, while the transfer of the greater part of Chutia Nagpur and the whole of the Chittagong Division with Hill Tippera will only bring about a net reduction of some five millions in the population now subject to the Lieutenant-Governor. It is clear that this would represent no great advance in the direction of affording relief to Bengal from its present excessive burden. It is mainly from these two points of view—the necessity of improving the Assam services and of reducing the responsibilities of Bengal—that the Government of India now proceed with a further suggestion, namely, the proposal to incorporate with Assam the districts of Dacca and Mymensingh.

24. These two districts of Eastern Bengal contain an area of 9,000 square miles, a population of 6,564,000, and a land revenue of 17 lakhs. Their association with Assam was first suggested by Sir W. Ward, Chief Commissioner, in 1896. It was opposed by his successor, Mr. (now Sir H.) Cotton, in 1897. It has been discussed in a tentative manner by the present Chief Commissioner. Mr. Fuller sees how greatly the transfer would be to the interest of his province, but he also recognises the difficulties, and he entertains some apprehension at the idea of Assam being swallowed up by Estern Bengal. On the other hand, the transfer is strongly recommended by other authorities.

25. Apart from the broader considerations to which attention has already been called, the arguments for the transfer may be stated as follows :—

(i) Geographically, Dacca and Mymensingh are separated by a clear line of division, *viz.*, the main channel of the Brahmaputra River, from Bengal. If they are joined to Assam, the latter will possess a definite and intelligible western boundary, whereas if the Chittagong Division is assigned to Assam, and Dacca and Mymensingh are left with Bengal, then the two latter districts will constitute a projection from the main body of Bengal obtruding itself into the heart of Assam, from which they will be separated by no ties either of origin, language, religion, or administration.

(ii) Not only will the transfer enable Assam to obtain an independent service, but that service would possess three separate Commissionerships, which would be its prize appointments. These would be (1) the Brahmaputra valley or Assam proper; (2) Dacca, to which would be added Sylhet and Cachar; (3) Chittagong.

(iii) The proposed transfer of Chittagong to Assam would constitute Chittagong the port of Assam. Equally would it be the port of Dacca and Mymensingh, of which it is the natural commercial outlet. Though the associations of these two districts have hitherto been almost exclusively with Bengal, yet the connection between them and Calcutta is from the physical point of view both arbitrary and unnatural, the numerous intervening rivers rendering communication difficult and slow.

(iv) There remains an argument to which no small weight attaches and which cannot be left out of consideration. The Government of India have reason to believe—and their impressions were strongly confirmed by the enquiries of the Police Commission—that there is no portion of Bengal where the drawbacks of an imperfectly supervised administration are more evident than in these outlying districts on its eastern border, and that nowhere is the absence of close and intimate touch between the officers of Government and the people more apparent or more regrettable. The Government of India believe that it would be an undoubted advantage to Bengal to lose these elements of weakness; and that the population and interest of the districts in question would be materially the gainers if they were brought into closer contact with the officers and the head of the local administration.

26. On the other hand the Governor-General in Council thinks it not unlikely that the proposal which has been here put forward may meet with keen criticism and perhaps in parts with strenuous opposition. The lines which such opposition may be expected to take will probably be the following:—

(i) The change will doubtless be represented as one of a retrograde character, tending to place a highly advanced and civilised community under a relatively backward administration. The influence of those sections of the local population, whose associations have hitherto lain with Calcutta and who appreciate a gravitation that draws them towards the capital both of a great province and of the Government of India, will be thrown into the same scale. These objections are deserving of consideration, but they are not of course of capital importance. They were successfully and wisely disregarded in the case of Sylhet and Cachar. They were formerly advanced, but have now been waived, in the case of Chittagong. As obstacles to an agreement by common consent they may be powerful now. But their weight is one that must be measured against the vastly superior interests at stake, and that will rapidly dwindle (should the change be effected) and before long disappear. The nearest analogy that occurs to the Government of India is that of the Talukdars of Oudh, who protected vigorously against their incorporation with the North-Western Provinces nearly half a century ago, but who have long ago acquiesced in the change, and would now equally resent a reversion to the *status quo ante*. But there is this remarkable difference, that whereas the Talukdars were many, there are comparatively few considerable zemindars in the area under examination, and they would gain in status and consideration by becoming the recognised magnates of a self-contained and progressive province.

(ii) It is possible that objections may be advanced on judicial grounds. The Government of India can see no reason why this should be the case, since the jurisdiction of the High Court of Calcutta over these districts would remain unaltered. Mr. Melitus, the Commissioner of the Assam Valley, remembering that in 1880 the High Court themselves suggested the appointment of a Judicial Commissioner at Dacca, has revived the idea.

The Government of India, as at present advised, do not see its advantages; and they are disposed to think that the inhabitants of the district would probably prefer the continuance of the present system, which would, as Mr. Fuller has pointed out, open up an avenue of possible promotion to the eight Judges serving in Assam.

(iii) Finally, there is the argument, suggested by the Chief Commissioner himself, that if Assam were thus enlarged, it would be swamped by the area added to it, and that the change would in effect be rather the annexation of Assam by Eastern Bengal than the transfer of Eastern Bengal to Assam. To the Government of India these fears appear to be, if not exaggerated, at any rate not formidable. Moreover, as has been observed above, they are disposed to think that the predominance of a single labour question and a single industrial interest in Assam is not on the whole advantageous. The province as reconstructed would acquire a new and composite character; but this character would not be more composite than is found in many other Indian administrations, while it would add to the importance and variety of the whole.

27. Balancing the arguments on either side, and bearing in mind the permanent considerations mentioned in paragraph 25, the Government of India are decidely in favour of the addition of the districts of Dacca and Mymensingh, as well as of the Chittagong Division, to Assam. They believe that this transfer would be the most efficient means for securing the end that they have in view, *viz.*, the ultimate benefit of the community, and the progressive improvement of the administration as a whole.

28. In conclusion, I am to state the figures for Bengal and Assam as they will stand' if the proposals of the Government of India are carried into execution. It will be observed that they relieve Bengal to the extent of 11 millions of people, and that they place Assam almost exactly upcn the same level with the Central Provinces, namely, 17 millions.

BENGAL—Present population 78,493,410

Gains.		*Losses.*	
Sambalpur (from Central Provinces).	659,971	Chittagong Division and Hill Tippera (to Assam)	4,911,056
Fendatory States (from Central Provinces).	948,420	Dacca and Mymensingh (to Assam).	6,564,590
Ganjam District (from Madras).	1,689,142	Chutia Nagpur (to Central Provinces).	3,986,915
Ganjam and Vizagapatam Agency Tracts (from Madras).	1,172,102		
	4,469,6 5		15,462,561
Net loss to Bengal	10,992,926	Future population	67,500,484

ASSAM—Present population 6,126,343

Gains.

Chittagong (from Bengal) ...		... ...	4,911,056
Dacca and Mymensingh (from Bengal)		... ...	6,564,590
Net gain to Assam	11,475,646	Further population	17,601,989

I am to ask that the Government of India may be favoured with a full expression of the views of the Lieutenant-Governor on the reconstruction of Bengal that is proposed in this letter and the effect of which is summarised in the foregoing statement.

Nos. 3679—3681, dated Calcutta, the 3rd December 1903.

From—H. H. RISLEY, Esquire, C.I.E., Secretary to the Government of India,

To—{ The Chief Secretary to the Government of Madras.
,, Hon'ble the Chief Commissioner of the Central Provinces.
,, Hon'ble the Chief Commissioner of Assam. }

I am directed to enclose, for the consideration of the Governor in Council / your consideration, a copy of a letter* to the Government of Bengal containing certain proposals for reducing the territorial jurisdiction of the Lieutenant-Governor by transferring portions of it to adjacent Provinces.

* No. 3678, dated the 3rd December 1903.

2. The objects which the Government of India seek to attain by the scheme explained in the letter are—

(1) to relieve the Bengal Government of a part of the excessive burden now imposed upon it and at the same time to make provision for the more efficient administration of some of the outlying districts of the Province;

(2) to promote the development of Assam by enlarging its jurisdiction so as to give it an outlet to the sea in connexion with the Assam Bengal Railway, and to render it possible to organize independent administrative services;

(3) to unite under a single administration the scattered sections of the Uriya-speaking population, and thereby to afford both to Madras and the Central Provinces some relief from the difficulties arising from the great diversity of language spoken in their existing jurisdictions.

3. I am now to invite the attention of the Government of Madras / your attention more particularly to paragraphs 12–15 / 9–15 / 18–27 of the letter to the Bengal Government, in which that part of the proposals affecting Madras / the Central Provinces / Assam is set forth in detail, and to request that the Government of India may be favoured with a full expression of the views of the Governor in Council / your views on the scheme.

ESTABLISHMENTS.

The 9th December 1903.

No. 711.—The services of Mr. J. Wilson, C.S.I., of the Indian Civil Service, are placed at the disposal of the Department of Revenue and Agriculture, with effect from the 15th December 1903.

SANITARY.

The 9th December 1903.

No. 1777.—For the purposes of section 6, sub-section (1), clause (*p*), of the Indian Ports Act, 1889 (X of 1889), as amended by the Indian Ports Act, 1901 (III of 1901), the Governor-General in Council is pleased to direct that cholera, small-pox, measles, and chicken-pox shall be deemed to be dangerous, infectious or contagious diseases common in India.

JUDICIAL.

The 11th December 1903.

No. 2103.—The services of Captain W. A. Bailey, Cantonment Magistrate, are placed at the disposal of the Government of the Punjab, for employment as a Cantonment Magistrate, with effect from the date of the expiry of his leave.

H. H. RISLEY,

Secretary to the Government of India.

MILITARY DEPARTMENT.

Fort William, the 11th December 1903.

CANTONMENTS.

No. 1173.—In exercise of the power conferred by section 20, sub-section (1), of the Cantonments Act, 1889 (XIII of 1889), and in continuation of the Government of India, Military Department, Notification No. 1162, dated the 7th December 1900, the Governor-General in Council is pleased to exempt the following persons, residing in the Cantonment of Dharmsala in the Kangra District, Punjab, from the operation of the conservancy tax imposed in that Cantonment by the Notification of the Government of the Punjab, No. 1244, dated the 29th June 1899, namely:—

Pensioner Karn Sing Burathoki.

Pensioner Bhagatbir Gurung.

VOLUNTEER CORPS.

No. 1187.—1. When a corps or any portion of a corps of volunteers is called out for actual military service, there shall be issued to the commanding officer a sum of thirty-two rupees for the provision of necessaries for each volunteer assembling with it; and that sum shall be applied by the commanding officer, who shall, within one month of its receipt, account for it, and hand over any unexpended balance to the volunteer.

Allowances on calling out of corps.

2. Every volunteer, who is not also a Government servant, shall, while engaged on actual military service, be entitled to the Indian pay and allowances for the time being admissible in the like circumstances to a person of corresponding rank in the British regular forces.

Pay and allowances of volunteer not in Government service.

3. Every volunteer, who is also a Government servant, shall, while engaged on actual military service, be entitled,—

Pay and allowances of volunteer in Government service.

(*a*) if at the time of being called out he was on duty or on leave on full pay, to the same pay and allowances as if he had remained on duty or on leave, or to the Indian pay and allowances for the time being admissible to a person of corresponding rank in the British regular forces, whichever are greater;

(*b*) if at the same time of being called out he was on leave on less than full pay, to the same pay and allowances as if he had remained on leave, together with the Indian pay and allowances for the time being admissible to a person of corresponding rank in the British regular forces:

and for all purposes of counting service he shall be deemed to have remained on duty or on leave, as the case may be.

4. Every volunteer shall, while engaged on actual military service, be entitled to the rations for the time being admissible to a person of corresponding rank in the British regular forces.

Rations.

5. Every volunteer shall, when released from actual military service, be entitled to a special additional allowance of sixteen rupees.

Allowance on release from actual military service.

6. Where a volunteer engaged on actual military service is wounded in action or otherwise injured in the performance of military duty, or where a volunteer so engaged is killed in action or dies of wounds or injuries so received, or disease so contracted, he or any member of his family, as the case may be, shall be entitled to the pension, gratuity or compassionate allowance admissible in the like circumstances to a person of corresponding rank in the British regular forces under the Royal Warrant for the time being in force.

Wound and family pensions.

Provided that any volunteer officer who is wounded or injured to such an extent as to be rendered permanently incapable of resuming employment similar to that on which he was engaged at the time of being called out for actual military service, shall, at his option, be entitled to receive for life, in lieu of the pension or gratuity admissible under this rule, half pay at the rate admissible to an officer of corresponding rank in the British regular forces under the Royal Warrant for the time being in force.

7. Every volunteer called out for, and proceeding on, actual military service shall, if he is also a Government servant, give notice of the fact to his immediate superior.

Notice to be given by volunteer in Government service.

8. Where a volunteer who is also a Government servant, or any member of the family of such a volunteer deceased, is entitled, by any other rules or regulations applicable to the case, to any pension, gratuity or compassionate allowance higher than that admissible under these rules, such higher pension, gratuity or compassionate allowance shall be payable in lieu of that admissible under these rules.

Saving of higher pension, etc., admissible in case of volunteer in Government service.

E. G. BARROW, *Major-General*,
Secretary to the Government of India.

Punjab Government Press, Lahore—17-12-03—630.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, DECEMBER 24, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED DECEMBER 19, 1903.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATIONS.

EMIGRATION.

Calcutta, the 10th December 1903.

No. 2209-3-7.—The following draft of a Notification which it is proposed to issue in exercise of the powers conferred by section 113 of the Indian Emigration Act, 1883 (XXI of 1883, as amended by X of 1902), is published, as required by sub-section (2) of the said section, for the information of persons likely to be affected thereby, and notice is hereby given that the draft will be taken into consideration by the Governor-General in Council on or after the 15th January 1904.

2. Any objection or suggestion which may be received from any person with respect to the draft before the date fixed aforesaid will be considered by the Governor-General in Council.

DRAFT NOTIFICATION .

In exercise of the powers conferred by section 113 of the Indian Emigration Act, 1883 (XXI of 1883, as amended by X of 1902), the Governor-General in Council is pleased to make the following rules to regulate the engagement of Natives of India under Chapter XIV of the saingAct, namely:—

Applications for permission to engage natives of India under section 107.

1. Every application under section 107 of the Act for permission to engage Natives of India to depart by sea out of India for any of the purposes specified in that section shall, besides furnishing information required on the various points referred to therein, show clearly and fully the name of the applicant, his father's name, the place of his residence, and his occupation or profession.

2. If the Local Government grants the permission applied for, it shall forward to the Protector of Emigrants at the port from which the Natives of India are to embark, a copy of the application and of the order of permission passed thereon under section 108 of the Act.

3. The Protector of Emigrants shall maintain the book referred to in section 109, sub-section (2), of the Act, in the following form ; and shall register therein the particulars required for the proper filling up of the form concerning each Native of India engaged, and his dependents and concerning the person engaging him :—

Register of Natives of India, and their dependents, engaged to proceed by sea out of India under the provisions of Chapter XIV of Act XXI of 1883 as amended by Act X of 1902.

Registration.		Persons engaged.		Dependents.		Particulars and residence of persons engaged and their dependents.							Heirs of persons engaged and their dependents.					Terms of agreement.					Person by whom engaged.								
																										Residence.					
Date.	No.	Name.	Father's name.	Name.	Relationship to persons engaged.	Sex.	Age.	Caste.	Occupation.	District.	Thana, tahsil, or taluk.	Village or town.	Name and residence.	Father's name.	Relationship.	Country for which engaged and port of disembarkation.	Name of ship and date fixed for departure.	Period for which engaged.	Nature of work.	Rate of wages.	Provision made for the health and comfort of the persons engaged, and their dependents, during the period of engagement.	Conditions as to repatriation at the end of the period of engagement.	Name.	Father's name.	Occupation.	District.	Thana, tahsil, or taluk.	Village or town.	Signature, mark, finger or thumb impression of the persons engaged and of their dependents.	Government, Order (No. and date).	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32

4. The Protector of Emigrants shall, if the Local Government so directs, give to every person permitted to engage Natives of India under the provision of Chapter XIV of the Act a certificate in the following form :

Certificate to be granted by Protector to the applicant.

Certified that _______ resident of _______ has been permitted by the Government of _______ to engage the person, or persons, named below for the purpose ____ and that the requirements of Chapter XIV of Act XXI of 1883, as amended by Act X of 1902, and of the rules thereunder, have been fulfilled.

Particulars of person, or persons, engaged, and of his, or their, dependents if any.

Name.	Father's name	Village or town, thana, tahsil or taluk, and district of residence.	Serial No. in Register.
1	2	3	4

5. If, upon the return of any Native of India after the expiry or termination of his engagement, the person who engaged him claims the release of any security which he may have furnished in pursuance of the provision of section 107, sub-section (1), sub-clause (ii), of the Act, he shall produce the Native of India with his dependents before the Protector of Emigrants at the port at which he originally embarked.

Procedure to be followed when release of security furnished under section 107 of the Act is claimed.

6. The Protector of Emigrants shall enter the date of return of every Native of India produced before him under rule 5, and of his dependents, if any, in the "Remarks" column of the register prescribed by rule 3, and shall question him as to the treatment which he received during the period of his engagement, and shall ascertain whether the terms of the agreement were duly observed.

Enquiry to be made by Protector as to the treatment received by Native of India produced under rule 5.

7. The Protector of Emigrants shall submit a report to the Local Government of the result of every enquiry made by him under rule 6; and, after receipt of such report and such further inquiry (if any) as it may think fit to make, the Local Government shall pass orders under section 110 of the Act.

Report of result of enquiry to be submitted by Protector to Government.

J. O. MILLER,

Secretary to the Government of India.

FORESTS.

The 18th December 1903.

No. 1457-*F.*—149-13.—The undermentioned officers, who have been appointed by His Majesty's Secretary of State to the Forest Department of India, are appointed to be Assistant Conservators, 2nd grade, with effect from the dates specified opposite their names, and are posted to the provinces named below:—

Mr. C. G. Trevor, Punjab ... ... 24th November 1903.

* * * * * * * *

J. WILSON,

Secretary to the Government of India.

GENERAL.

The 18th December 1903.

No. 4213—251-5.—With reference to the Notification in the Home Department, No. 711 (Establishment), dated 9th December 1903, Mr. J. Wilson, C. S. I., Settlement Commissioner, Punjab, is appointed Secretary to the Government of India in the Department of Revenue and Agriculture sub. *pro tem.* with effect from the forenoon of the 15th December 1903.

R. E. V. ARBUTHNOT,

Under-Secretary to the Government of India.

FOREIGN DEPARTMENT.

NOTIFICATION.

Fort William, the 18th December 1903.

No. 2951-*E. B.*—The following Order of His Majesty in Council, which was published in the *London Gazette* of the 17th February 1903, is republished for general information:—

At the Court at Buckingham Palace, the 16th day of February, 1903.

PRESENT,

The King's Most Excellent Majesty.

Archbishop of Canterbury,	Marquess of Londonderry,
Lord President,	Lord Chamberlain.

Whereas by Treaty, capitulation, grant, usage, sufferance, and other lawful means His Majesty the King has jurisdiction within the dominions of the King of Siam.

Now, therefore, His Majesty, by virtue and in exercise of the powers in this behalf by "The Foreign Jurisdiction Act, 1890," or otherwise in His Majesty vested, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered as follows:—

PART I.—PRELIMINARY AND GENERAL.

1. This Order may be cited as "The Siam Order in Council, 1903."

2. This Order is divided into parts as follows:—

Parts.	Subject.	Articles.
I.	Preliminary and General	1—6
II.	Constitution and powers of Courts	7—25
III.	Criminal Matters	26—74
IV.	Civil Matters	75—107
V.	Procedure, Criminal and Civil	108—118
VI.	Bills of Sale	119—135
VII.	King's Regulations	136—139
VIII.	Registration	140—157
IX.	International Court	158—161
X.	Foreign Subjects and Tribunals	162—164
XI.	Miscellaneous	165—175
	Schedule of Repealed Orders	

3. In the construction of this Order the following words and expressions have the meanings hereby assigned to them, unless there be something in the subject or context repugnant thereto, that is to say:—

"Administration" means letters of administration, including the same with will annexed or granted for special or limited purposes or limited in duration.

"The Minister" means His Majesty's Minister, and includes Chargé d'Affaires or other chief Diplomatic Representative of His Majesty in Siam for the time being.

"British merchant-ship" means a merchant ship being a British ship within the meaning of "The Merchant Shipping Act, 1894."

"British subject" includes a British-protected person, that is to say, a person who either (*a*) is a native of any Protectorate of His Majesty, and is for the time being in Siam; or (*b*) by virtue of Section 15 of "The Foreign Jurisdiction Act, 1890," or otherwise enjoys His Majesty's protection in Siam.

"Consular district" means the district in and for which a Consular officer usually acts, or for which he may be authorised to act, for all or any of the purposes of this Order by authority of the Secretary of State.

"Consular officer" means a Consul-General, Consul, Vice-Consul, Consular Agent, or pro-Consul of His Majesty resident in Siam, including a person acting temporarily, with the approval of the Secretary of State, as or for a Consul-General, Consul, Vice-Consul, or Consular Agent of His Majesty so resident.

"Consulate" and "Consular office" refer to the Consulate and office of a Consular officer.

"The Court," except when the reference is to a particular Court, means any Court established under this Order, subject, however, to the provisions of this Order with respect to powers and local jurisdictions.

"Foreigner" means a subject or citizen of a State in amity with His Majesty, other than Siam.

"Legal practitioner" includes barrister-at-law, advocate, solicitor, Writer to the Signet, and any person possessing similar qualifications.

"Lunatic" means idiot or person of unsound mind.

"Master," with respect to any ship, includes every person (except a pilot) having command or charge of that ship.

"Month" means calendar month.

"Oath" and "affidavit," in the case of persons for the time being allowed by law to affirm or declare, instead of swearing, include affirmation and declaration, and the expression "swear" in the like case, includes affirm and declare.

"Offence" includes crime, and any act or omission punishable criminally in a summary way or otherwise.

"Office copy" means a copy made under the direction of the Court, or produced to the proper officer of the Court for examination with the original, and examined by him and sealed with the seal of the Court.

"Person" includes Corporation.

"Pounds" means pounds sterling.

"Prescribed" means prescribed by Rules of Court.

"Prosecutor" means complainant or any person appointed or allowed by the Court to prosecute.

"Proved" means shown by evidence on oath, in the form of affidavit, or other form, to the satisfaction of the Court or Consular officer acting or having jurisdiction in the matter, and "proof" means the evidence adduced in that behalf.

"Resident" means having a fixed place of abode in Siam.

"Rules of Court" means rules of Court made under the provisions of this Order.

"Secretary of State" means one of His Majesty's Principal Secretaries of State.

"Ship" includes any vessel used in navigation, however propelled, with her tackle, furniture, and apparel, and any boat or other craft.

"Supreme Court" means the Supreme Court of the Straits Settlements.

"The Treasury" means the Commissioners of His Majesty's Treasury.

"Treaty" includes any Convention, Agreement, or Arrangement, made by or on behalf of His Majesty with any State or Government, King, Chief, people, or tribe, whether His Majesty the King of Siam is or is not a party thereto.

"Will" means will, codicil, or other testamentary instrument.

Expressions used in any rules, regulations, or orders made under this Order shall, unless a contrary intention appears, have the same respective meanings as in this Order.

4. (1.) Words importing the plural or the singular may be construed as referring to one person or thing, or to more than one person or thing, and words importing the masculine as referring to the feminine (as the case may require).

(2.) Where this Order confers any power or imposes any duty, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(3.) Where this Order confers a power, or imposes a duty on, or with respect to, a holder of an office, as such, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by, or with respect to, the holder for the time being of the office or the person temporarily acting for the holder.

(4.) Where this Order confers a power to make any rules, regulations, or orders, the power shall, unless a contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, vary, or amend the rules, regulations, or orders.

(5.) This Article shall apply to the construction of any rules, regulations, or orders made under this Order, unless a contrary intention appears.

5. The jurisdiction conferred by this Order extends to the persons and matters following, in so far as by Treaty, grant, usage, sufferance, or other lawful means, His Majesty has jurisdiction in Siam in relation to such matters and things, that is to say:—

(i.) British subjects, as herein defined, within the limits of this Order.

(ii.) The property and all personal or proprietary rights and liabilities in Siam of British subjects, whether such subjects are within the said limits or not.

(iii.) Siamese subjects and foreigners in the cases and according to the conditions specified in this Order and not otherwise.

(iv.) Foreigners with respect to whom any State, King, Chief, or Government, whose subjects, or under whose protection they are, has by any Treaty, as herein defined or otherwise agreed with His Majesty for, or consents to, the exercise of power or authority by His Majesty.

(v.) British ships with their boats, and the persons and property on board thereof or belonging thereto, being within the Siamese dominions.

6. All His Majesty's jurisdiction exercisable in Siam for the hearing and determination of criminal or civil matters, or for the maintenance of order, or for the control or administration of persons or property, or in relation thereto, shall be exercised under and according to the provisions of this Order, and not otherwise.

PART II.—CONSTITUTION AND POWERS OF COURTS.

(i.) *Court for Siam.*

7. (1.) There shall be a Court styled "His Britannic Majesty's Court for Siam" (in this Order referred to as the Court for Siam, and comprised in the term "the Court").

(2.) Subject to the provisions of this Order, there shall be one Judge of the Court for Siam, who shall be appointed by His Majesty, by warrant under His Royal Sign Manual.

He shall be at the time of his appointment a member of the Bar of England, Scotland, or Ireland, of not less than five years' standing.

(3.) The Judge may hold a Commission from His Majesty as Consul-General or Consul.

(4.) There shall be attached to the Court for Siam a Registrar, a Marshall, and so many officers and clerks under such designations as the Secretary of State thinks fit.

(5.) In case of the death, illness, or other incapacity, or of the absence or intended absence from the Consular district of Bangkok of the Judge, the Minister may, if he thinks fit, appoint as Acting or Assistant Judge either the Consul at Bangkok or a person qualified to be appointed Judge.

(6.) The Secretary of State may temporarily attach to the Court for Siam such persons, being Consular officers, as he thinks fit.

(7.) Persons attached to the Court under this Article shall discharge such duties and exercise such powers in connection with the Court as may be prescribed by Rules of Court, or as the Judge, with the approval of the Secretary of State, may direct.

8. The Court for Siam shall have seal, bearing the style of the Court and such device as the Secretary of State approves, but the seal in use in the District Court at Bangkok at the commencement of this Order shall continue to be used until a new seal is provided.

(ii.) *District Courts.*

9. (1.) Every Consular officer, with such exceptions (if any) as the Secretary of State thinks fit to make, shall for and in his own Consular district hold and form a Court, in this Order referred to as a District Court.

(2.) Every District Court shall be styled "His Britannic Majesty's District Court at ,, (or as the case may be).

(3.) Every District Court shall, with the approval of the Court for Siam, appoint a competent person, or persons, to perform such duties and to exercise such powers as are by this Order and any rules of Court imposed and conferred upon the Registrar and Marshall, and any person so appointed shall perform such duties and exercise such powers accordingly.

(iii.) *Supreme Court.*

10. (1.) The Supreme Court shall have appellate jurisdiction under this Order.

(2.) The appellate jurisdiction of the Supreme Court shall be exercised by the full Supreme Court sitting in the Straits Settlements in such manner and according to such procedure as, subject to the provisions of this Order, the Supreme Court from time to time, by Rules of Court or otherwise, may direct.

(3.) Judgments or orders of the Supreme Court, in the exercise of its appellate jurisdiction, shall be certified by the Supreme Court to the Court for Siam or, when the appeal is from the judgment or order of the Supreme Court acting in Siam or in the Straits Settlements, then to such Court in Siam as the Supreme Court thinks fit, and (subject to any appeal to His Majesty in Council) that Court may and shall execute and give effect to the same in like manner as to its own judgments or orders.

(4.) Except as provided by this Order the Supreme Court shall not exercise any control over a Court in Siam, whether by way of mandamus, prohibition, certiorari, writ of *habeas corpus* or otherwise.

11. The Supreme Court shall, for the purposes of this Order, have original jurisdiction as follows:—

(1.) When, under this Order, a person accused of an offence is sent for trial to the Straits Settlements, the Supreme Court shall have the like jurisdiction, and may proceed in the same manner as if the offence had been committed in the Straits Settlements, except that the criminality of the act charged and the punishment to be inflicted must be determined according to the law applicable under the Order in Siam.

(2.) On the request of the Minister (made with the consent of the Government of the King of Siam), the Supreme Court may exercise in Siam in relation to any civil or criminal matter any original jurisdiction which can be exercised by the Court for Siam, and all the provisions of this Order shall apply accordingly (*mutatis mutandis*), and any appeal shall be to the full Supreme Court.

(3.) On the like request made with the like consent, the Supreme Court may hear and determine at Bangkok, or elsewhere in Siam, any criminal case which could under this Order be sent for trial to the Straits Settlements, and for that purpose shall have the like jurisdiction and may proceed in the same manner as nearly as may be as if it were trying the same case in the Straits Settlements, or as if it were the Court for Siam trying in Siam a criminal case within the jurisdiction of a District Court.

(4.) The Supreme Court may hear and determine within the Straits Settlements any civil case arising in Siam, with the consent of the parties and of the Minister, and for that purpose may adopt any procedure proper either in the Straits Settlements or in Siam. In such case any appeal shall be to the full Supreme Court.

(5.) For the purposes of the exercise of original jurisdiction under this Article, such Judge or Judges of the Supreme Court as the Chief Justice of the Straits Settlements from time to time nominates, shall exercise the powers of the Supreme Court.

(6.) Every Court in Siam may and shall, according to its powers, execute, enforce, and give effect to any judgment or order of the Supreme Court in the exercise of its original jurisdiction, and may and shall, for the purposes of anything to be done preliminary to a sitting of the Supreme Court—as, for instance, the summoning of a jury, or of assessors, or of witnesses—exercise (*mutatis mutandis*) all the powers which such Court has for any purpose under this Order in a case or matter pending before itself.

(iv.) *Powers of Courts.*

12. All His Majesty's jurisdiction, civil and criminal, including any jurisdiction by this Order conferred expressly on a District Court, shall for and within the district of the Consulate of Bangkok, be vested exclusively in the Court for Siam as its ordinary original jurisdiction.

13. All His Majesty's jurisdiction, civil and criminal, not under this Order vested exclusively in the Court for Siam, shall to the extent and in the manner provided by this Order be vested in the District Courts.

14. The Court for Siam shall have in all matters, civil and criminal, an original jurisdiction, concurrent with the jurisdiction of the several District Courts, to be exercised subject and according to the provisions of this Order.

15. The Court for Siam shall ordinarily sit at Bangkok; but may, on emergency, sit at any other place in Siam, and may at any time transfer its ordinary sittings to any such place as the Secretary of State approves. Under this Article the Judge and an Assistant Judge may sit at the same time at different places, and each sitting shall be deemed to be a sitting of the Court for Siam.

16. The Judge of the Court for Siam may visit in a magisterial or judicial capacity any place in Siam, and there inquire of, or hear and determine, any case, civil or criminal, and may examine any records or other documents in any District Court, and give directions as to the keeping thereof.

17. Where any case, civil or criminal, commenced in a District Court, appears to that Court to be beyond its jurisdiction, or to be one which for any other reason ought to be tried in the Court for Siam, the District Court shall report the case to the Court for Siam for directions.

18. The Court for Siam may of its own motion, or upon the report of a District Court or on the application of any party concerned, require any case, civil or criminal, pending in any District Court to be transferred to, or tried in the Court for Siam, or may direct in what Court and in what mode, subject to the provisions of this Order, any such case shall be tried.

19. The Court for Siam and each District Court, shall, in the exercise of every part of its jurisdiction, be a Court of Record.

20. Every District Court shall execute any writ or order issuing from the Court for Siam and shall take security from any person named in a writ or order for his appearance personally or by attorney, and shall, in default of security being given, or when the Court for Siam so orders, send the person in custody to Bangkok.

21. The Court for Siam and each District Court shall be auxiliary to one another in all particulars relative to the administration of justice, civil or criminal.

22. Subject to the provisions of this Order, criminal and civil cases may be tried as follows:—

(a) In the case of the Court for Siam by the Court itself, or by the Court with a jury, or with Assessors.

(b) In the case of a District Court by the Court itself, or by the Court with Assessors.

23. (1.) Notwithstanding anything in this Order, the Court shall not exercise any jurisdiction in any proceeding whatsoever over the Minister, or over his official or other residences, or his official or other property.

(2.) Notwithstanding anything in this Order, the Court shall not exercise, except with the consent of the Minister, signified in writing to the Court, any jurisdiction in any proceeding over any person attached to or being a member of, or in the service of, the Legation.

(3.) If in any case under this Order it appears to the Court that the attendance of the Minister, or of any person attached to or being a member of the Legation, or being in the service of the Legation, to give evidence before the Court is requisite in the interest of justice, the Court may address to the Minister a request in writing for such attendance.

(4.) A person attending to give evidence before the Court shall not be compelled or allowed to give any evidence or produce any document, if, in the opinion of the Minister, signified by him personally or in writing to the Court, the giving or production thereof would be injurious to His Majesty's service.

(v.) *Jurors and Assessors.*

24. (1.) Every male resident subject—being of the age of 21 years or upwards—having a competent knowledge of the English language—having or earning a gross income (as such rate as may be fixed by Rules of Court)—not having been attainted of treason or felony, or convicted of any crime that is infamous (unless he has obtained a free pardon)—and not being under outlawry—shall be qualified to serve on a jury.

(2.) All persons so qualified shall be liable so to serve except the following:—

Persons in His Majesty's Diplomatic, Consular, or other Civil Service, in actual employment;

Officers, clerks, keepers of prisons, messengers, and other persons attached to or in the service of the Court;

Officers and others on full pay in His Majesty's navy or army, or in actual employment in the service of any Department connected therewith;

Persons holding appointments in the civil, naval, or military service of Siam;

Clergymen and ministers in the actual discharge of professional duties;

Legal practitioners in actual practice;

Physicians, surgeons, and apothecaries in actual practice;

Persons who are over 60 years of age, or are disabled by mental or bodily infirmity.

(3.) A jury shall consist of five jurors.

(4.) In criminal cases tried with a jury, the verdict of the jury must be unanimous. In civil cases the verdict must be unanimous unless the parties otherwise agree.

(5.) No challenge shall be allowed except for cause shown to the satisfaction of the Court.

(6.) No grand jury shall be summoned.

(7.) Where there is to be a hearing with a jury, the Court shall summon so many of the persons comprised in the jury list, not fewer than nine, as seem requisite.

(8.) Any person failing to attend, according to the summons, shall be deemed guilty of a contempt of Court, and shall be liable to a fine not exceeding £ 10.

(9.) Any such fine shall not be levied until after the expiration of fourteen days. The proper officer of the Court shall forthwith give to the person fined notice in writing of the imposition of the fine, and require him within six days after receipt of the notice to file an affidavit, excusing non-attendance (if he desire to do so). The Court shall consider the affidavit, and may, if it seems proper, remit the fine.

25. (1.) An Assessor shall be a competent and impartial subject of good repute, resident in the district of the particular Court, and nominated and summoned by the Court for the purpose of acting as Assessor.

(2.) In the Court for Siam there may be one Assessor or two Assessors, as the Court thinks fit.

(3.) In a District Court there shall ordinarily not be fewer than two, and not more than four, Assessors. Where, however, by reason of local circumstances, the Court is able to obtain the presence of one Assessor only, the Court may, if it thinks fit, sit with one Assessor only, and where, for like reasons, the Court is not able to obtain the presence of an Assessor, the Court, may, if it thinks fit, sit without an Assessor, the Court in every case recording in the Minutes its reasons for sitting with one Assessor only or without an Assessor.

(4.) An Assessor shall not have any voice in the decision of the Court in any case, civil or criminal; but an Assessor dissenting, in a civil case, from any decision of the Court, or, in a criminal case, from any decision of the Court or the conviction or the amount of punishment awarded, may record in the Minutes his dissent, and the grounds thereof; and shall be entitled to receive, without payment, a certified copy of the Minutes.

(5.) If any person summoned to act as Assessor fails, without lawful excuse, to attend at the trial, or at any adjournment thereof, or to continue to serve throughout the trial, he shall be liable, under a summary order of the Court, to a fine not exceeding £10, to be levied by attachment and sale of his goods within the district, and in default of recovery thereby of the fine to be imprisoned for any time not exceeding six days, if the fine is not sooner paid.

PART III.—CRIMINAL MATTERS.

26. (1.) Except as regards offences made or declared such by this or any other Order relating to Siam, or by any Rules or Regulations made under any such Order :—

Any act that would not by a Court of Justice having criminal jurisdiction in England be deemed an offence in England, shall not, in the exercise of criminal jurisdiction under this Order, be deemed an offence or be the subject of any criminal proceeding under this Order.

(2.) Subject to the provisions of this Order, criminal jurisdiction under this Order shall, as far as circumstances admit, be exercised on the principles of, and in conformity, with, English law for the time being, and with the powers vested in the Courts of Justice and Justices of the Peace in England, according to their respective jurisdiction and authority.

Local Jurisdiction in Criminal Matters.

27. Every Court may cause to be summoned or arrested, and brought before it, any person subject to, and being within the limits of, its jurisdiction, and accused of having committed an offence cognizable under this Order, and may deal with the accused according to the jurisdiction of the Court and in conformity with the provisions of this Order.

28. For the purposes of criminal jurisdiction every offence and cause of complaint committed or arising within the limits of this Order shall be deemed to have been committed or to have arisen, either in the place where the same actually was committed or arose, or in any place where the person charged or complained of happens to be at the time of the institution or commencement of the charge or complaint.

29. Where a person charged with an offence escapes or removes from the Consular district within which the offence was committed, and is found within another Consular district, the Court within whose district he is found may proceed in the case to trial and punishment, or to preliminary examination (as the case may require), in like manner as if the offence had been committed in its own district ; or may, on the requisition, or with the consent of the Court within whose district the offence was committed, send him in custody to that Court, or require him to give security for his surrender to that Court, there to answer the charge, and to be dealt with according to law.

Where any person is to be so sent in custody, a warrant shall be issued by the Court within whose district he is found, and that warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him to and deliver him up to the Court within whose district the offence was committed, according to the warrant.

30. (1.) In the cases of murder or manslaughter if either the death, or the criminal act which wholly or partly caused the death, happened within the jurisdiction of a Court acting under this Order, that Court shall have the like jurisdiction over any British subject who is charged either as the principal offender, or as accessory before the fact to murder or as accessory after the fact to murder or manslaughter, as if both the criminal act and the death had happened within that jurisdiction.

(2.) In the case of any offence committed on the high seas, or within the Admiralty jurisdiction, by any British subject on board a British ship, or on board a foreign ship to which he did not belong, the Court shall, subject to the provisions of this Order, have jurisdiction as if the offence had been committed within the jurisdiction of that Court. In cases tried under this Article no different sentence can be passed from the sentence which could be passed in England if the offence were tried there.

(3.) The foregoing provisions of this Article shall be deemed to be adaptations, for the purposes of this Order and of "The Foreign Jurisdiction Act, 1890," of the following enactments, that is to say:—

"The Admiralty Offences (Colonial) Act, 1849."
"The Admiralty Offences (Colonial) Act, 1860."
"The Merchant Shipping Act, 1894," section 686.

Apprehension and Custody of Accused Persons.

31. (1.) Where a person charged with an offence is arrested on a warrant issuing out of any Court, he shall be brought before the Court within forty-eight hours after the execution of the warrant, unless in any case circumstances unavoidably prevent his being brought before the Court within that time, which circumstances shall be recorded in the Minutes.

(2.) In every case, he shall be brought before the Court as soon as circumstances reasonably admit, and the time and circumstances shall be recorde d in the Minutes.

32. (1.) Where an accused person is in custody, he shall not be remanded at any time for more than seven days, unless circumstances appear to that Court to make it necessary or proper that he should be remanded for a longer time, which circumstances and the time of remand, shall be recorded in the Minutes.

(2.) In no case shall a remand be for more than fourteen days at one time, unless in case of illness of the accused or other case of necessity.

33. Where the Court issues a summons or warrant against any person on complaint of an offence committed on board of, or in relation to a British ship, then, if it appears to the Court that the interests of public justice so require, that Court may issue a warrant or order for the detention of the ship, and may cause the ship to be detained accordingly until the charge is heard and determined, and the order of the Court thereon is fully executed, or for such shorter time as the Court thinks fit; and the Court shall have power to make all such orders as appears to it necessary or proper for carrying this provision into effect.

34. (1.) Every District Court shall execute any writ or order issuing from the Court for Siam, and shall take security from any person named in a writ or order for his appearance personally or by attorney, and shall, in default of security being given, or when the Court for Siam so orders, send the person on board one of His Majesty's vessels of war to Bangkok, or such other port as may be named in the order, or, if no vessel of war is available, then on board some British or other fit vessel.

(2.) The order of the Court shall be sufficient authority to the commander or master of the vessel to receive and detain the person, and deliver him up at the port named according to the order.

35. (1.) The Court may, in its discretion, admit to bail a person charged with any of the following offences, namely :—

Any felony.

Riot.

Assault on any officer in the execution of his duty, or on any person acting in his aid.

Neglect or breach of duty by an officer.

But a person charged with treason or murder shall not be admitted to bail except by the Court for Siam.

(2.) In all other cases the Court shall admit the accused to bail unless the Court, having regard to the circumstances, sees good reason to the contrary, which reason shall be recorded in the Minutes.

(3.) The Court for Siam may admit a person to bail, although a District Court has not thought fit to do so.

(4.) The accused who is to be admitted to bail, either on remand or on or after trial ordered, shall produce such surety or sureties as, in the opinion of the Court, will be sufficient to insure his appearance as and when required, and shall with him or them enter into a recognizance accordingly.

Trial with Jury or Assessors.

36. (1.) When the offence charged is treason or murder, the case must be tried with a jury before the Court for Siam, or under the provisions of this Order before the Supreme Court.

(2.) In each of the two following cases, namely :—

(i) Where the offence charged is rape, arson, housebreaking, robbery with violence, forgery or perjury; or,

(ii) Where the offence charged is any other than aforesaid, but it appears to the Court at any time before the trial, the opinion of the Court being recorded in the Minutes, that the offence charged, if proved, would not be adequately punished by imprisonment for three months with hard labour, or by a fine of £20, or both such imprisonment and fine—

The charge shall be triable with a jury or assessors (according to the provisions of this Order applicable to the Court); but may, with the consent of the accused, be tried without assessors or jury. In the Court for Siam, when the accused does not so consent, the charge shall be tried with a jury, unless the Court is of opinion that a jury cannot be obtained.

(3.) The Court for Siam may, for any special reason, direct that any case shall be tried with assessors or a jury, and a District Court may, for any special reason, direct that any case shall be tried with assessors. In each such case the special reason shall be recorded in the Minutes.

37. (1.) Where an accused person is ordered to be tried before a Court with a jury, or with assessors, he shall be tried as soon after the making of the order as circumstances reasonably admit.

(2.) As long notice of the time of trial as circumstances reasonably admit shall be given to him in writing, under the seal of the Court, which notice, and the time thereof, shall be recorded in the Minutes.

38. (1.) The Court for Siam shall, when required by the Secretary of State, send to him a report of the sentence of the Court in any case tried before that Court with a jury or assessors, with a copy of the Minutes and notes of evidence, and with any observations which the Court thinks fit to make.

(2.) Every District Court shall, in accordance with Rules of Court, send to the Court a report of the sentence of the Court in every case tried by that Court with assessors, with such Minutes, notes of evidence, and other documents as such Rules may direct, and with any observations which the District Court thinks fit to make.

Summary Trial.

39. Where the complaint discloses an offence which is not required to be heard on a charge, and the Court does not think fit to direct it to be heard on a charge, the accused may be tried summarily on the complaint: Provided that no greater punishment shall be imposed than imprisonment for three months or a fine of £20, or both.

Preliminary Examination.

40. (1.) Where the accused is before the Court, and it appears to the Court that the complaint discloses an offence—

(*a*) Which ought to be tried in or reported to another Court; or

(*b*) Which ought to be tried before the same Court with a jury or assessors;

the Court shall proceed to make a preliminary examination in the prescribed manner.

(2.) Where the case is to be tried in or reported to another Court, the Court shall, on the conclusion of the preliminary examination, bind by recognizance the prosecutor and every witness to appear at the trial to prosecute, or to prosecute and give evidence, or to give evidence (as the case may be), and shall forthwith send the depositions with a minute of other evidence (if any) and a report, to the Court before which the trial is to take place.

41. Where a British subject is charged with the commission of an offence the cognizance whereof appertains to the Court and it is expedient that the offence be inquired of, tried, determined, and punished within His Majesty's dominions elsewhere than in England, the accused may (under "The Foreign Jurisdiction Act, 1890," section 6) be sent for trial to Singapore.

The Court for Siam may, where it appears so expedient, by warrant under the hand of the Judge and the seal of the Court, cause the accused to be sent for trial to Singapore accordingly.

The warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named and to carry him to and deliver him up at Singapore according to the warrant.

Where any person is to be so sent to Singapore, the Court before which he is charged shall take the preliminary examination, and shall bind over such of the proper witnesses as are British subjects in their own recognizances to appear and give evidence on the trial.

42. (1.) If a British subject, having appeared as prosecutor or witness at a preliminary examination, refuses to enter into a recognizance to appear at the trial to prosecute or give evidence, the Court may send him to prison, there to remain until after the trial, unless in the meantime he enters into a recognizance.

(2.) But if afterwards, from want of sufficient evidence or other cause, the accused is discharged, the Court shall order that the person imprisoned for so refusing be also discharged.

(3.) Where the prosecutor or witness is not a British subject, the Court may require him either to enter into a recognizance or to give other security for his attendance at the trial, and if he fails to do so may, in its discretion, dismiss the charge.

(4.) Subject to Rules of Court made under this Order, the Court may order payment of the reasonable expenses of any complainant or witness attending before the Court on the trial of any criminal case by a jury or with assessors, and also of the reasonable expenses of the jury or assessors.

Charges.

43. (1.) Every accused person, unless tried summarily, shall be tried upon a charge, which shall state the offence charged, with such particulars as to the time and place of the alleged offence, and the person (if any) against whom or the thing (if any) in respect of which it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2.) The fact that a charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

(3.) Where the nature of the case is such that the particulars above mentioned do not give such sufficient notice as aforesaid, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will give such sufficient notice.

(4.) For the purposes of the application of any Statute law, a charge framed under the provisions of this Order shall be deemed to be an indictment.

44. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases following, that is to say—

(*a.*) Where a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.

(*b.*) If in one series of acts so connected together as to form the same transaction more offences than one are committed by the same person, he may be charged with and tried at one trial for every such offence.

(*c.*) If the acts alleged constitute an offence falling within two or more definitions or descriptions of offences in any law or laws, the accused may be charged with, and tried at one trial for, each of such offences.

(*d.*) If several acts constitute several offences, and also when combined, a different offence, the accused may be charged with, and tried at one trial for, the offence constituted by such acts when combined, or one or more of the several offences, but in the lattter case shall not be punished with more severe punishment than the Court which tries him could award for any one of those offences.

(*e.*) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any, of such offences and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the offences; and if it appears in evidence that he has committed a different offence for which he might have been charged, he may be convicted of that offence, although not charged with it.

45. When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one is accused of committing an offence and another of abetting or attempting to commit that offence, they may be charged and tried together or separately, as the Court thinks fit.

46. (1.) The Court, if sitting with a jury or assessors, may alter any charge at any time before the verdict of the jury is returned or the opinions of the assessors are expressed; if sitting without jury or assessors, at any time before judgment is pronounced.

(2.) Every such alteration shall be read and explained to the accused.

(3.) If the altered charge is such that proceeding with the trial immediately is likely in the opinion of the Court, to prejudice the accused or the prosecutor, the Court may adjourn the trial for such period as may be necessary.

47. (1.) No error or omission in stating either the offence or the particulars shall be regarded at any stage of the case as material, unless the accused was misled by such error or omission.

(2.) When the facts alleged in certain particulars are proved and constitute an offence, and the remaining particulars are not proved, the accused may be convicted of the offence constituted by the facts proved, although not charged with it.

(3.) When a person is charged with an offence, and the evidence proves either the commission of a minor offence or an attempt to commit the offence charged, he may be convicted of the minor offence or of the attempt.

48. (1.) If the accused has been previously convicted of any offence, and it is intended to prove such conviction for the purpose of affecting the punishment which the Court is competent to award, the fact, date, and place of the previous conviction shall be stated in the charge.

(2.) If such statement is omitted, the Court may add it at any time before sentence is passed.

(3.) The part of the charge stating the previous convictions shall not be read out in Court nor shall the accused be asked whether he has been previously convicted, as alleged in the charge, unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence.

(4.) If he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted, as alleged in the charge.

(5.) If he answers that he has been so previously convicted, the Court may proceed to pass sentence on him accordingly; but, if he denies that he has been so previously convicted, or refuses to, or does not, answer the question, the Court shall then inquire concerning the previous conviction, and in that case (where the trial is by jury) it shall not be necessary to swear the jurors again.

Punishments.

49. The powers of the Courts with respect to punishments are limited as follows:—

(1.) The Court for Siam may award in respect of an offence any punishment which may in respect of a similar offence be awarded in England; provided that (*a*) imprisonment with hard labour shall be substituted for penal servitude, and (*b*) the Court for Siam shall not award a fine exceeding £500; or, in case of a continuing offence, in addition to imprisonment or fine, or both, a fine not exceeding £1 for each day during which the offence continues after conviction.

(2.) A District Court may award imprisonment not exceeding twelve months, with or without hard labour, and with or without a fine not exceeding £100; or a fine not exceeding £100, without imprisonment.

(3.) But nothing in this article shall be deemed to empower any Court to award for any offence any punishment not authorized by law in relation to that offence.

50. (1.) If any person is guilty of an offence against this Order, not distinguished as a grave offence against this Order, he is liable, on summary conviction—

(i) To a fine not exceeding £5, without any imprisonment; or

(ii) To imprisonment not exceeding one month, without fine; or

(iii) To imprisonment not exceeding fourteen days, with a fine not exceeding £2.

(2) Imprisonment under this Article is without hard labour.

51. (1.) If any person is guilty of an offence against this Order, distinguished as a grave offence against this Order, he is liable, on summary conviction—

(i.) To a fine not exceeding £10, without imprisonment; or

(ii.) To imprisonment not exceeding two months, without fine; or

(iii.) To imprisonment not exceeding one month, with a fine not exceeding £5.

(2.) Imprisonment under this Article is, in the discretion of the Court, with or without hard labour.

52. (1.) The Court may, if it thinks fit, order a person convicted of an assault to pay to the person assaulted by way of damages any sum not exceeding £10.

(2.) Damages so ordered to be paid may be either in addition to or in lieu of a fine and shall be recoverable in like manner as a fine.

(3.) Payment of such damages shall be a defence to an action for the assault.

53. (1.) The Court may, if it thinks fit, order a person convicted before it to pay all or part of the expenses of his prosecution, or of his imprisonment or other punishment, or of both, the amount being specified in the order.

(2.) Where it appears to the Court that the charge is malicious, or frivolous and vexatious, the Court may, if it thinks fit, order the complainant to pay all or part of the expenses of the prosecution, the amount being specified in the order.

(3.) In these respective cases the Court may, if it thinks fit, order that the whole or such portion as the Court thinks fit, of the expenses so paid be paid over to the complainant or to the accused (as the case may be).

(4.) In all cases the reasons of the Court for making any such order, or for refusing it if applied for, shall be recorded in the Minutes.

54. Where any person is sentenced to suffer the punishment of death, the Judge of the Court for Siam shall forthwith send a report of the sentence, with a copy of the Minutes of Proceedings and notes of evidence in the case, and with any observations he thinks fit, to His Majesty's Minister.

The sentence shall not be carried into execution without the direction of His Majesty's Minister in writing under his hand.

In any such case, if His Majesty's Minister does not direct that the sentence of death be carried into execution, he shall direct what punishment in lieu of the punishment of death is to be inflicted on the person convicted, and the person convicted shall be liable to be so punished accordingly.

55. (1.) The Court for Siam may by general order, approved by the Secretary of State, prescribe the manner in which and the prisons in Siam at which punishments passed by any Court or otherwise awarded under this Order are to be carried into execution.

(2.) The warrant of any Court shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named in any prison so prescribed.

56. (1.) Where an offender is sentenced to imprisonment, and the Court for Siam thinks it expedient that the sentence be carried into effect within His Majesty's dominions, and the offender is accordingly, under section 7 of "The Foreign Jurisdiction Act, 1890," sent for imprisonment to a place in His Majesty's dominions, the place shall be either Singapore, or a place in some other part of His Majesty's dominions, the Government whereof consents that offenders may be sent thither under this Article.

(2.) The Court for Siam may, by warrant under the hand of a Judge and the seal of the Court, cause the offender to be sent to Singapore or other such place as aforesaid, in order that the sentence may be there carried into effect accordingly.

(3.) The warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him to and deliver him up at the place named, according to the warrant.

57. (1.) The Court for Siam may, if it thinks fit, report to the Secretary of State recommending a mitigation or remission of any punishment awarded by any Court, and thereupon the punishment may be mitigated or remitted by the Secretary of State.

(2.) Nothing in this Order shall effect His Majesty's prerogative of pardon.

Inquests.

58. (1.) The Court shall have and discharge all the powers, rights, and duties appertaining to the office of Coroner in England, in relation, not only to the deaths of British subjects happening in the district of the Court, but also to deaths of any persons having happened at see on board British ships arriving in the district, and to deaths of British subjects having happened at sea on board foreign ships so arriving, provided as follows:—

(a.) Where a British subject is charged with causing the death, the Court may, without holding an inquest, proceed forthwith with the preliminary examination.

(*b*.) Where a British subject is not charged with causing the death, the Court shall, without any jury, hold an inquest, taking the depositions of those who know the facts. If, during or after the inquest, a British subject is so charged, the depositions shall be read over in the presence of the witnesses and of the accused, who shall be entitled to cross-examine each witness and the procedure shall be as in other cases of preliminary examination. If, after the inquest, the Court does not see fit to cause any person to be charged, the Court shall certify its opinion of the cause of the death. When the inquest is held by a District Court, the certificate and the depositions shall be sent forthwith the Court for Siam, and that Court may give any directions which may seem proper in the circumstances.

(2.) In this Article the expression " the Court " includes the Registrar of the Court for Siam.

Statutory and other offences.

59. Any act which, if done in the United Kingdom, or in a British possession, would be an offence against any of the following Statutes of the Imperial Parliament or Orders in Council, that is to say—

" The Merchandize Marks Act, 1887 ";

" The Patents, Designs, and Trade Marks Acts, 1883 to 1888 ";

Any Act, Statute, or Order in Council for the time being in force relating to copyright or to inventions, designs, or trade-marks ;

Any Statute amending, or substituted for, any of the above-mentioned Statutes;

Shall, if done by a British subject in Siam, be punishable as a grave offence against this Order, whether such act is done in relation to any property or right of a British subject, or of a foreigner, or native, or otherwise howsoever.

Provided—

(1.) That a copy of any such Statute or Order in Council shall be published in the public office of the Consulate at Bangkok, and shall be there open for inspecttion by any person at all reasonable times ; and a person shall not be punished under this Article for anything done before the expiration of one month after such publication, unless the person offending is proved to have had express notice of the Statute or Order in Council.

(2.) That a prosecution by or on behalf of a prosecutor who is not a British subject shall not be entertained unless the Court is satisfied that effectual provisions exist for the punishment in Consular or other Courts in Siam of similar acts committed by the subjects of the State or Power of which such prosecutor is a subject, in relation to, or affecting the interests of, British subjects.

60. (1.) If a British subject—

(i.) Smuggles, or attempts to smuggle, out of Siam any goods on exportation whereof a duty is payable to the Siamese Government;

(ii.) Imports or exports, or attempts to import or export, into or out of Siam any goods, intending or attempting to evade payment of duty payable thereon to the Siamese Government;

(iii.) Imports or exports, or attemps to import or export, into or out of Siam any goods the importation or exportation whereof, into or out of Siam, is prohibited by law ;

(iv.) Without a proper license, sells, or attempts to sell, or offers for sale, in Siam any goods whereof the Siamese Government has by law a monopoly.

In each of the four cases aforesaid he shall be guilty of a grave offence against [th]is Order.

(2.) Where a person is charged with such an offence as in this Article is mentioned, the Court may seize the goods in relation to which the alleged offence was committed, and may hold the same until after the hearing of the charge.

(3.) If a person so charged is convicted, then those goods, whether they have been so seized or not, shall be forfeited to His Majesty the King, and the Court shall dispose of them as the Court thinks fit.

61. (1.) If any British subject, without His Majesty's authority, proof whereof shall lie on the party accused, does any of the following things, that is to say—

(*a*.) Levies war or takes any part in any operation of war against, or aids or abets any person in carrying on war, insurrection, or rebellion against the Government of Siam; or

(*b*.) Takes part in any operation of war in the service of the Government of Siam against any person engaged in carrying on war, insurrection, or rebellion against that Government, he shall be guilty of an offence against this Order, and, on conviction thereof, shall be liable to imprisonment, with or without hard labour, for any term not exceeding two years, and with or without a fine not exceeding £500, or to a fine not exceeding £500 without imprisonment.

(2.) In addition to any such punishment every conviction under the provisions of this Article shall of itself, and without further proceedings, make the person convicted liable to deportation, and the Court may order him to be deported from Siam in manner provided by this Order.

(3.) An offence against this Article shall not be tried except in the Court for Siam.

62. Any British subject being in Siam may be proceeded against, tried, and punished under this Order for piracy wherever committed.

If a person accused of piracy is brought before a District Court, that Court shall report the case to the Court for Siam and the Court for Siam shall thereupon direct in what mode and when the case shall be heard and determined, and the case shall be heard and determined accordingly.

63. (1.) Where, by agreement among the Diplomatic or Consular Representatives in Siam of foreign States, or some of them, in conjunction with the Siamese authorities, Sanitary, or Police, or Port, or Game, or other Regulations are established, and the same, as far as they affect British subjects, are approved by the Secretary of State, the Court may, subject and according to the provisions of this Order, entertain any complaint made against a British subject for a breach of those Regulations, and may enforce payment of any fine incurred by that subject or person in respect of that breach, in like manner, as nearly as may be, as if that breach were by this Order declared to be an offence against this Order.

(2.) In any such case the fine recovered shall be disposed of and applied in such manner (if any) as may be provided by those Regulations, or otherwise in like manner as other fines recovered under this Order.

64. Every person subject to the criminal jurisdiction of the Court who prints, publishes, or offers for sale any printed or written newspaper or other publication containing matter calculated to excite tumult or disorder, or to excite enmity between His Majesty's subjects and the Government of Siam, or between that Government and its subjects, shall be guilty of a grave offence against this Order, and may, in addition to, or in lieu of, any other punishment, be ordered to give security for good behaviour, and in default thereof, or on a further conviction for the like offence, he may be ordered to be deported.

An offence against this Article shall not be tried in a District Court.

65. (1.) If a British subject—

(i.) Publicly derides, mocks, or insults any religion established or observed within Siam; or

(ii.) Publicly offers insult to any religious service, feast, or ceremony established or kept in any part of those dominions, or to any place of worship, tomb, or sanctuary belonging to any religion established or observed within those dominions, or belonging to the ministers or professors thereof; or

(iii.) Publicly and wilfully commits any act tending to bring any religion established or observed within those dominions, or its ceremonies, mode of worship, or observances, into hatred, ridicule or contempt, and thereby to provoke a breach of the public peace;

he shall be guilty of an offence, and, on conviction thereof, liable to imprisonment not exceeding two years, with or without hard labour, and with or without a fine not exceeding £50, or to a fine alone not exceeding £50.

(2.) Notwithstanding anything in this Order, every charge under this Article shall be heard and determined by the Court alone, without jury or Assessors, and any District Court shall have power to impose the punishment aforesaid.

(3.) Consular officers shall take such precautionary measures as seem to them proper and expedient for the prevention of such offences.

66. (1.) If any person, subject to the criminal jurisdiction of a Court, does any of the following things, namely:—

(a.) Wilfully, by act or threat, obstructs an officer of, or person executing any process of, the Court in the performance of his duty; or

(b.) Within or close to the room or place were the Court is sitting wilfully misbehaves in a violent, threatening, or disrespectful manner, to the disturbance of the Court, or to the intimidation of suitors or others resorting thereto; or

(c.) Wilfully insults any member of the Court, or any Assessor or juror, or any person acting as clerk or officer of the Court, during his sitting or attendance in Court, or in his going to or returning from Court: or

(d.) Does any act in relation to the Court, or a matter pending therein, which, if done in relation to the High Court in England, would be punishable as a contempt of that Court;

he shall be guilty of a grave offence against this Order;

Provided that the Court, if it thinks fit, instead of directing proceedings as for an offence against this Order, may order the offender to be apprehended forthwith, with or without warrant, and on inquiry and consideration, and after the hearing of any defence which such person may offer, without further process or trial, may adjudge him to be punished with a fine not exceeding £10 or with imprisonment not exceeding twenty-four hours, at the discretion of the Court.

(2.) A Minute shall be made and kept of every such case of punishment, recording the facts of the offence, and the extent of the punishment. In the case of a District Court, a copy of the Minute shall be forthwith sent to the Court for Siam.

(3.) Nothing herein shall interfere with the power of the Court to remove or exclude persons who interrupt or obstruct the proceedings of the Court.

67. (1.) If an officer of the Court employed to execute an order loses by neglect or omission the opportunity of executing it, then, on complaint of the person aggrieved, and proof of the fact alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof.

(2.) The order shall be enforced as an order directing payment of money.

68. (1.) If a clerk or officer of the Court, acting under pretence of the process or authority of the Court is charged with extortion, or with not paying over money duly levied, or with other misconduct, the Court, if it thinks fit, may inquire into the charge in a summary way, and may for that purpose summon and enforce the attendance of all necessary persons, as in an action, and may make such order for the repayment of any money extorted, or for the payment over of any money levied, and for the payment of such damages and costs, as the Court thinks fit.

(2.) The Court may also, if it thinks fit, on the same inquiry, impose on the clerk or officer such fine, not exceeding £5, for each offence, as the Court thinks fit.

(3.) A clerk or officer punished under this Article shall not be liable to an action in respect of the same matter; and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks fit.

Deportation.

69. (1.) Where it is proved that there is reasonable ground to apprehend that a British subject is about to commit a breach of the public peace—or that the acts or conduct of a British subject are or is likely to produce or excite to a breach of the public peace—the Court may, if it thinks fit, cause him to be brought before it, and require him to give security to the satisfaction of the Court, to keep the peace or for his future good behaviour, as the case may require.

(2.) Where a British subject is convicted of an offence before the Court, the Court for the district in which he is may, if it thinks fit, require him to give security to the satisfaction of the Court for his future good behaviour, and for that purpose may (if need be) cause him to be brought before the Court.

(3.) In either of the foregoing cases, if the person required to give security fails to do so, the Court may order that he be deported from Siam to such place as the Court directs.

(4.) The place shall be a place in some part (if any) of His Majesty's dominions to which the person belongs, or the Government of which consents to the reception of persons deported under this Order.

(5.) A District Court shall report to the Court for Siam any order of deportation made by it and the grounds thereof, before the order is executed. The Court for Siam may reverse the order, or may confirm it with or without variation, and in case of confirmation, shall direct it to be carried into effect.

(6.) The person to be deported shall be detained in custody until a fit opportunity for his deportation occurs.

(7.) He shall, as soon as is practicable, and in the case of a person convicted, either after execution of the sentence or while it is in course of execution, be embarked in custody under the warrant of the Court for Siam on board one of His Majesty's vessels of war, or, if there is no such vessel available, then on board any British or other fit vessel bound to the place of deportation.

(8.) The warrant shall be sufficient authority to the commander or master of the vessel to receive and detain the person therein named, and to carry him to and deliver him up at the place named according to the warrant.

(9.) If any master of a British ship, after a reasonable remuneration for the conveyance of a deported person has been tendered or paid to him, refuses or fails to carry such person to the place named, he shall be liable to a penalty not exceeding £50.

(10.) The Court may order the person to be deported to pay all or any part of the expenses of his deportation. Subject thereto, the expenses of deportation shall be defrayed in such manner as the Secretary of State, with the concurrence of the Treasury, may direct.

(11.) The Court for Siam shall forthwith report to the Secretary of State any orde of deportation made or confirmed by it and the grounds thereof, and shall also inform His Majesty's Minister.

(12.) If any person deported under this or any former Order returns to Siam without permission in writing to the Secretary of State (which permission the Secretary of State may give), he shall be deemed guilty of a grave offence against this Order; and he shall also be liable to be forthwith again deported.

Appeal and Reserved Case.

70. (1.) Where a person is convicted before a District Court—

(*a*) If he considers the conviction erroneous in law, then, on his application, within the prescribed time (unless it appears merely frivolous, when it may be refused); or

(*b*) If the District Court thinks fit to reserve for consideration of the Court for Siam any question of law arising on the trial;

the District Court shall state a case, setting out the facts and the grounds of the conviction, and the question of law, and send it to the Court for Siam.

(2.) When a person is convicted before a Judge of the Court for Siam, the preceding provisions of this Article shall apply and be read as if the Court for Siam were substituted for the District Court, and the Supreme Court for the Court for Siam.

71. (1.) Where a case is stated under the last preceding Article, the Court, before whom the trial was had (in this Article referred to as the Court below, shall, as it thinks fit, either postpone judgment on the conviction, or respite execution of the judgment, and either commit the person convicted to prison, or take security for him to appear and receive judgment, or to deliver himself for execution of the judgment (as the case may require), at an appointed time and place.

(2.) The Court for whose consideration the case is stated (in this Article referred to as the Court above), sitting without a jury or assessor, shall hear and finally determine the matter, and thereupon shall reverse, affirm, or amend the judgment given, or set it aside, and order an entry to be made in the Minutes that, in the judgment of that Court, the

person ought not to have been convicted, or order judgment to be given at a subsequent sitting of the Court below, or make such other order as the Court above thinks just, and shall also give all necessary and proper consequential directions.

(3.) The judgment of the Court above shall be delivered in open Court, after the public hearing of any argument offered on behalf of the prosecutor or of the person convicted.

(4.) Before delivering judgment, the Court above may, if necessary, cause the case to be amended by the Court below.

(5.) The Court above shall not annul a conviction or sentence, or vary a sentence on the ground—

(a) Of any objection which, if stated during the trial, might, in the opinion of the Court above, have been properly met by amendment at the trial; or

(b) Of any error in the summoning of assessors; or

(c) Of any person having served as assessor who was not qualified; or

(d) Of any objection to any person as assessor which might have been raised before or at the trial; or

(e) Of any informality in the swearing of any witness; or

(f) On any error or informality which, in the opinion of the Court above, did not affect the substance of the case or subject the convicted person to any undue prejudice.

72. Where, under Article 70 (1), a case is stated by a District Court to the Court for Siam, the Court for Siam may, if it thinks fit, either before or after giving its decision on the case, refer it to the consideration of the Supreme Court, and the foregoing provisions shall apply as if the case had been stated to the Supreme Court.

73. There shall be no appeal in a criminal case to His Majesty the King in Council from a decision of the Supreme Court, except by special leave of His Majesty in Council.

Fugitive Offenders.

74. "The Fugitive Offenders Act, 1881," and "The Colonial Prisoners Removal Act, 1884," shall apply to Siam, as if Siam were a British possession and part of His Majesty's dominions.

Subject as follows :—

(a) His Majesty's Minister is hereby substituted for the Governor or Government of a British possession, and

(b) The Court for Siam is hereby substituted for a Superior Court of a British possession.

(c) The Court for Siam and each District Court is substituted for a Magistrate of any part of His Majesty's dominions.

(d) For the purposes of Part II of the said Act of 1881, and of this Article in relation thereto, Siam and the Straits Settlements shall be deemed to be one group of British possessions.

PART IV.—CIVIL MATTERS.

75. Subject to the provisions of this Order, the civil jurisdiction of every Court acting under this Order shall, as far as circumstances admit, be exercised on the principles of, and in conformity with, English law for the time being.

Procedure.

76. (1.) Every civil proceeding in the Court shall be taken by action, and not otherwise and shall be designated an action.

(2.) For the purposes of any statutory enactment or other provision applicable under this Order to any civil proceeding in the Court, an action under this Order shall comprise and be equivalent to a suit, cause, or petition, or to any civil proceeding, howsoever required by any such enactment or provision to be instituted or carried on.

77. (1.) Every action shall commence by a summons, issued from the Court on the application of the plaintiff, and served on the defendant (in this Order referred to as an original summons).

(2.) Every application in the course of an action may be made to the Court orally and without previous formality, unless in any case the Court otherwise directs, or the Rules of Court otherwise provide.

(3.) No action or proceeding shall be treated by the Court as invalid on account of any technical error or mistake in form or in words.

(4.) All errors and mistakes may be corrected, and times may be extended, by the Court in its discretion, and on such terms as the Court thinks just.

78. (1.) The sittings of the Court for the hearing of actions shall, where the amount of business so requires, be held on stated days.

(2.) The sittings shall ordinarily be public, but the Court may, for reasons recorded in the Minutes, hear any particular case in the presence only of the parties and their legal advisers and the officers of the Court.

79. There shall ordinarily be no written pleadings; but the Court may at any time if it thinks fit, order the plaintiff to put in a written statement of his claim, or a defendant to put in a written statement of his defence.

80. The evidence on either side may, subject to the direction of the Court, be wholly or partly oral, or on affidavit, or by deposition.

81. (1.) Notwithstanding anything in this Order, the Court (for reasons recorded in the Minutes) may at any time do any of the following things as the Court thinks just:—

(i.) Defer or adjourn the hearing or determination of any action, proceeding, or application;

(ii.) Order or allow any amendment of any pleading or other document;

(iii.) Appoint or allow a time for, or enlarge or abridge the time appointed or allowed for, or allow further time for, the doing of any act or the taking of any proceeding.

(2.) Any order within the discretion of the Court may be made on such terms respecting time, costs, and other matters as the Court thinks fit.

82. (1.) Subject to the provisions of this Order, every action in the Court for Siam which involves the amount or value of £200 or upwards shall, on the demand of either party in writing, filed in the Court seven days before the day appointed for the hearing, be heard with a jury.

(2.) Any other suit may, on the suggestion of any party, at any stage, be heard with a jury, if the Court thinks fit.

(3.) Any suit may be heard with a jury if the Court, of its own motion, at any stage thinks fit.

(4.) Where a jury is not employed, the Court for Siam may hear any action with or without assessors.

83. (1.) A District Court shall (subject to the provisions of this Order) hear with assessors every action which involves the amount or value of £150 or upwards.

(2.) In all other cases, a District Court may, as it thinks fit, hear the action either with or without assessors.

84. (1.) After the issue of a summons by any Court, the decision of that Court may be given upon a special case submitted to the Court by the parties.

(2.) Any decision of a District Court may be given subject to a case to be stated by, or under the direction of, that Court for the opinion or direction of the Court for Siam.

85. Subject to the provisions of this Order and the Rules of Court, the costs of, and incident to, all proceedings in the Court shall be in the discretion of the Court, provided that if the action is tried with a jury the costs shall follow the event, unless the Court shall for good cause (to be entered in the Minutes) otherwise order.

Arbitration.

86. (1.) Any agreement in writing between any British subjects to submit present or future differences to arbitration, whether an Arbitrator is named therein or not, may be filed in the Court by any party thereto, and, unless a contrary intention is expressed therein, shall be irrevocable, and shall have the same effect as an order of the Court.

(2.) Every such agreement is in this Order referred to as a submission.

(3.) If any action is commenced in respect of any matter covered by a submission, the Court, on the application of any party to the action, may by order stay the action.

87. (1.) In any action—

(a.) If all parties consent, or

(b.) If the matters in dispute consist wholly or partly of matters of account, or require for their determination prolonged examination of documents or any scientific or local examination,

the Court may at any time refer the whole action, or any question or issue arising therein for inquiry and report, to the Registrar or any special Referee.

(2.) The Report of the Registrar or special Referee may be adopted wholly or partially by the Court, and if so adopted may be enforced as a judgment of the Court.

(3.) The Court may also in any case, with the consent of both parties to an action, or of any parties between whom any questions in the action arise (such consent being signified by a submission), refer the action or the portions referred to in the submission to arbitration, in such manner and upon such terms as it shall think reasonable or just.

(4.) In all cases of reference to a Registrar, special Referee, or Arbitrator, under any order of the Court, the Registrar, special Referee, or Arbitrator shall be deemed to be an officer of the Court, and shall have such powers and authority, and shall conduct such reference or arbitration in such manner as may be prescribed by any Rules of Court, and subject thereto as the Court may direct.

88. Subject to the Rules of Court, the Court shall have authority to enforce any submission or any award made thereunder, and to control and regulate the proceedings before and after the award, in such manner and on such terms as the Court thinks fit.

Bankruptcy.

89. (1.) Each Court shall, as far as circumstances admit, have, for and within its own district, with respect to the following classes of persons being either resident in Siam, or carrying on business there, namely, resident British subjects and their debtors and creditors, being British subjects, of foreigners submitting to the jurisdiction of the Court, all such jurisdiction in bankruptcy as for the time being belongs to the High Court and the County Courts in England.

(2.) Proceedings in bankruptcy shall be originated by a summons to the party to be made bankrupt to show cause why he should not be adjudicated bankrupt, or by a summons issued by a debtor himself to his creditor, or any of his creditors, to show cause why he (the debtor) should not be adjudicated bankrupt.

(3.) On or at any time after the issue of such a summons, the Court for Siam may stay any proceedings pending in any Court in any action, execution, or other legal process against the debtor in respect of any debt provable in bankruptcy, or it may allow such proceedings whether pending at the commencement of the bankruptcy or begun during the continuance of the bankruptcy, to proceed in such terms as the Court thinks fit.

(4.) The Court may, on or at any time after the issue of such a summons, appoint a receiver or manager of the property of business of the debtor, or of any part thereof, and may direct immediate possession to be taken by an officer of the Court, or under the control of the Court, of that property or business, or of any part thereof.

Admiralty.

90. (1.) The Court for Siam shall have Admiralty jurisdiction for and within the limits of this Order, and over vessels and persons coming within the same.

(2.) The following enactments of "The Colonial Courts of Admiralty Act, 1890," that is to say, section 2, sub-sections (2) to (4); sections 5 and 6; section 16, sub-section (3); shall apply to the Court for Siam as if that Court were a Colonial Court of Admiralty, and as if Siam were a British possession; and for the purpose of this application the expressions "judgment" and "appeal" shall in the enactments so applied have the same respective meanings as are assigned thereto in section 15 of the said Act.

Matrimonial.

91. The Court for Siam shall, as far as circumstances admit, have for and within Siam, with respect to British subjects, all such jurisdiction in matrimonial causes except the jurisdiction relative to dissolution or nullity or jactitation of marriage, as for the time being belongs to the High Court in England.

Lunacy.

92. (1.) The Court for Siam shall, as far as circumstances admit, have for and within Siam, in relation to British subjects, all such jurisdiction relative to the custody and management of the persons and estates of lunatics, as for the time being belongs to the Lord Chancellor or other Judge or Judges in England intrusted by virtue of His Majesty's sign manual with the care and commitment of the custody of the persons and estates of lunatics, and also such jurisdiction as may be exercised in England by a judicial authority under the provisions of "The Lunacy Act, 1890," or any Act amending the same.

(2.) A District Court shall, as far as circumsances permit, have in relation to British subjects, such jurisdiction relative to the custody and management of the persons and estates of lunatics as for the time being may be prescribed by Rules of Court, and until such Rules are made, and so far as such Rules do not apply, as may be exercised in England by a judicial authority and by the Masters in Lunacy under the provisions of "The Lunacy Act, 1890," or any Act amending the same.

(3.) In any such case the District Court may, of its own motion, or on the application of any person interested, take or authorize such steps as to the Court may seem necessary or expedient for the immediate protection of the person and property of any person appearing to the Court to be a lunatic, and may, from time to time, revoke, or vary, or supplement any order or proceeding taken in the matter.

(4.) A District Court shall report any proceedings under this Article to the Court for Siam, and shall thereafter proceed according to any directions of the Court for Siam.

(5.) Sections 5 to 7 of "The Lunatic Removal (India) Act, 1851" (14 and 15 Vict., cap. 81), shall apply to Siam, with the substitution of "the Court for Siam" for "the Supreme Court of Judicature at any of the Presidencies of India."

Probate and Administration.

93. All real or immovable property situate in Siam, and belonging at the time of his death to any British subject, shall be deemed to be personal estate; and the devolution thereof in case of intestacy shall be regulated according to the law of England for the time being relating to personal estate.

94. (1.) The Court for Siam shall, as far as circumstances admit, have, for and within Siam, with respect to the wills and the property in Siam of deceased British subjects, all such jurisdiction as for the time being belongs to the High Court in England.

(2.) A District Court shall have power to grant probate or letters of administration where there is no contention respecting the right to the grant.

(3.) Probate or administration granted by a Court under this Order shall have effect over all the property of the deceased within Siam, and shall effectually discharge persons dealing with an executor or administrator thereunder notwithstanding that any defect afterwards appears in the grant.

95. Section 51 of "The Conveyancing (Scotland) Act, 1874," and any enactment for the time being in force amending or substituted for the same, are hereby extended to Siam, with the adaption following, namely:—

The Court for Siam is hereby substituted for a Court of Probate in a Colony.

96. (1.) Where probate, administration, or confirmation is granted in England, Ireland, or Scotland, and therein, or by a Memorandum thereon signed by an officer of the Court granting the same, the testator or intestate is stated to have died domiciled in England, Ireland, or Scotland (as the case may be), and the probate, administration, or confirmation is produced to, and a copy thereof is deposited with, the Court for Siam, the Court shall write thereon a certificate of that production and deposit under the seal of the Court; and thereupon, notwithstanding anything in this Order, the probate, administration, or confirmation shall, with respect to the personal property in Siam of the testator or intestate, have the like effect as if he had been resident in those dominions at his death, and probate or administration to his personal property there had been granted by the Court for Siam.

(2.) Any person who, in reliance on an instrument purporting to be a probate, administration, or confirmation granted in England, Ireland, or Scotland, and to bear such a certificate of the Court for Siam as in this Article prescribed, makes or permits any payment or transfer in good faith, shall be, by virtue of this Order, indemnified and protected in respect thereof, in Siam, notwithstanding anything affecting the validity of the probate, administration, or confirmation.

(3.) The following shall be the terms of the certificate of the Court for Siam in this Article prescribed, namely :—

This probate has [*or* these letters of administration have, *or* this confirmation has] been produced in this Court, and a copy thereof has been deposited with this Court.

97. (1.) Where a British subject dies in Siam or elsewhere, intestate, then, until administration is granted, his personal property in Siam shall be vested in the Judge of the Court for Siam.

(2.) The Court within whose jurisdiction any property of the deceased is situate shall, where the circumstances of the case appear to the Court so to require, forthwith on his death, or as soon after as may be, take possession of his personal property within the particular jurisdiction, or put it under the seal of the Court (in either case if the nature of the property or other circumstances so require, making an inventory), and so keep it until it can be dealt with according to law.

98. If any person named executor in the will of the deceased takes possession of and administers or otherwise deals with any part of the personal property of the deceased, and does not obtain probate within one month after the death, or after the termination of any suit or dispute respecting probate or administration, he shall be guilty of an offence and shall be liable to a fine not exceeding £50.

99. If any person, other than the person named executor or an administrator or an officer of the Court, takes possession of and administers or otherwise deals with any part of the personal property of a deceased British subject, whether resident or not, he shall be deemed guilty of a contempt of Court, and shall be liable to a fine not exceeding £50.

100. Where a person appointed executor in a will survives the testator, but either dies without having taken probate, or, having been called on by the Court to take probate, does not appear, his right in respect of the executorship wholly ceases ; and, without further renunciation, the representation to the testator and the administration of his property shall go and may be committed as if that person had not been appointed executor.

101. (1.) Where a British subject dies in Siam, any other such subject having in his possession, or under his control, any paper or writing of the deceased, being or purporting to be, testamentary, shall forthwith bring the original to the Court within whose particular jurisdiction the death happens, and deposit it there.

If any person fails to do so for fourteen days after having knowledge of the death of the deceased, be shall he guilty of an offence and liable to a fine not execeeding £50.

(2.) Where it is proved that any paper of the deceased, being, or purporting to be, testamentary, is in the possession or under the control of a British subject, the Court may, whether a suit or proceeding respecting probate or administration is pending or not, order him to produce the paper and bring it into Court.

(3.) Where it appears to the Court, that there are reasonable grounds for believing that any person has knowledge of any paper being, or purporting to be, testamentary (although it is not shown that the paper is in his possession or under his control), the Court may, whether a suit or proceeding for prabate or administration is pending or not, order that he be examined respecting it before the Court or elsewhere, and that he do attend for that purpose, and after examination order that he do produce the paper and deposit it in Court.

102. Where it is appears to the Court that the value of the property or estate of a deceased person does not exceed £100, the Court may, without any probate or letters of administration, or other formal proceeding, pay thereout any debts or charges, and pay, remit, or deliver any surplus to such persons, subject to such conditions (if any) as the Court thinks proper, and shall not be liable to any action, suit, or proceedings in respect of anything done under this Article. Every proceeding of the Court under this Article shall be recorded in the Minutes.

Appeals.

103. (1.) Where an action in the Court involves the amount or value of the £0 or upwards, any party aggrieved by any decision of that Court, with or without Assessors, in the action shall have the right to appeal against the same, on such terms and conditions as may be prescribed by Rules of Court under this Order. The appeal lies from decisions of the District Court to the Court for Siam, and from original decisions of the Court for Siam to the Supreme Court.

(2) In any other case the Court below may, if it seems just and expedient, give leave to appeal on like terms.

(3.) In any case the Court above may give leave to appeal on such terms as seem just.

104. Any party aggrieved by a decision of the Court of Siam, on appeal from a District Court, may appeal therefrom to the Supreme Court, on the like terms, and subject to the same conditions as in the case of an original decision of the Court for Siam, and the provisions of the last preceding Article shall apply accordingly, provided that the Supreme Court may in any case to which this Article relates issue any orders or give directions either to the Court for Siam or to the District Court.

Appeals to His Majesty in Council.

105. (1.) Where a final Judgment or Order of the Supreme Court made in a civil action involves the amount or value of £500 or upwards, any party aggrieved thereby may, within the prescribed time, or, if no time is prescribed, within fifteen days after the same is made or given, apply by motion to the Supreme Court for leave to appeal to His Majesty the King in Council.

(2.) The applicant shall give security to the satisfaction of the Court to an amount not exceeding £500 for the prosecution of the appeal, and for such costs in the event of the dismissal of the appeal for want of prosecution as the Supreme Court may award, and for payment of all such costs as may be awarded to any respondent by His Majesty in Council, or by the Lords of the Judicial Committee of His Majesty's Privy Council.

(3.) He shall also pay into the Supreme Court a sum estimated by that Court to be the amount of the expense of the making up and transmission to England of the transcript of the record.

(4.) If security and payment are so given and made within two months from the filing of the motion-paper for leave to appeal, then, and not otherwise, the Supreme Court shall give leave to appeal, and the appellant shall be at liberty to prefer and prosecute his appeal to His Majesty in Council according to the Rules for the time being in force respecting appeals to His Majesty in Council from His Colonies, or such other Rules as His Majesty in Council from time to time thinks fit to make concerning appeals from the Supreme Court.

(5.) In any case the Supreme Court, if it considers it just or expedient to do so, may give leave to appeal on the terms and in the manner aforesaid.

106. (1.) Where leave to appeal to His Majesty in Council is applied for by a person ordered to pay money or do any other act, the Supreme Court shall direct either that the order appealed from be carried into execution, or that the execution thereof be suspended pending the appeal, as the Court thinks just.

(2.) If the Court directs the order to be carried into execution, the person in whose favour it is made shall, before the execution of it, give security to the satisfaction of the Court for performance of such order as His Majesty in Council may think fit to make.

(3.) If the Court directs the execution of the order to be suspended, the party against whom it is given shall, before an order for suspension is made, give security to the satisfaction of the Court for performance of such order as His Majesty in Council may think fit to make.

107. This Order shall not affect the right of His Majesty at any time, on the humble petition of a person aggrieved by a decision of the Supreme Court, to admit his appeal thereon on such terms and in such manner as His Majesty in Council may think fit, and to deal with the decision appealed from in such manner as may be just.

PART V.—PROCEDURE, CRIMINAL AND CIVIL.

108. (1.) In every case, civil or criminal, Minutes of the proceedings shall be drawn up, and shall be signed by the Judge or Consular Officer before whom the proceedings are taken, and shall, where the trial is held with assessors, be open for their inspection and for their signature if concurred in by them.

(2.) These Minutes, with the depositions of witnesses, and the notes of evidence taken at the hearing or trial by the Judge or Consular Officer, shall be preserved in the public office of the Court.

109. The Judge of the Court for Siam may make Rules of Court for the regulation of all matters of civil and criminal procedure.

Provision may, amongst other things, be made by such Rules—

(*a*) For prescribing forms or procedure;

(*b*) For regulating the mode in which legal practitioners are to be admitted to practise as such;

(*c*) For prescribing and enforcing the fees to be taken in respect of any proceeding under this Order, not exceeding, as regards any matters provided for by "The Consular Salaries and Fees Act, 1891," fees fixed and allowed from time to time by any Order in Council made under the Act;

(*d*) For prescribing a scale of payments to be made to a complainant or witness, or a jury or assessors (in criminal cases only), and the conditions upon which an Order may be made by the Court for such payments;

(*e*) For prescribing scales of costs to be paid to practitioners;

(*f*) For taking and transmitting depositions of witnesses for use at trials in a British possession or in England.

Rules framed under this Article shall not have effect until approved by the Secretary of State, and, so far as they relate to fees and costs, sanctioned by the Treasury; but, in case of urgency declared in any such Rules with the approval of His Majesty's Minister, the same shall have effect unless and until they are disapproved by the Secretary of State, and notification of such disapproval is received and published by the Judge.

Until such Rules and Forms have been made, or in relation to matters to which they do not extend, a Court may adopt and use any procedure or forms heretofore in use in the Consular Courts in Siam, and in force immediately before the commencement of this Order, with any modifications or adaptations which may be necessary.

110. (1.) The Court may, in any case, if it thinks fit, on account of the poverty of a party, or for any other reason, provisionally dispense with the payment of any fee in whole or in part.

(2.) Paymant of fees payable under any Rules to be made in pursuance of this Order, and of costs, and of charges and expenses of witnesses, prosecutions, punishments, and deportations and of other charges and expenses, and of fines respectively payable under this Order, may be enforced under order of the Court by seizure and sale of goods, and in default of sufficient goods, by imprisonment as a civil prisoner for a term not exceeding one month, but such imprisonment shall not operate as a satisfaction or extinguishment of the liability.

(3.) Any bill of sale or mortgage, or transfer of property made with a view of avoiding seizure or sale of goods or ship under any provision of this Order, shall not be effectual to defeat the provisions of this Order.

111. (1.) Every person doing an act or taking a proceeding in the Court as plaintiff in a civil case, or as making a criminal charge against another person, or otherwise, shall do so in his own name and not otherwise, and either—

(*a*) By himself; or

(*b*) By a legal practitioner; or

(*c*) By his attorney or agent thereunto lawfully authorized in writing and approved by the Court.

(2.) Where the act is done or proceeding taken by an attorney (other than a legal practitioner), or by an agent, the power of attorney, or instrument authorizing the agent, or an authenticated copy thereof, shall be first filed in the Court.

(3.) Where the authority has reference only to the particular proceeding, the original document shall be filed.

(4.) Where the authority is general, or has reference to other matters in which the attorney or agent is empowered to act, an authenticated copy of the document may be filed.

(5.) Any person doing any act or taking any proceeding in the Court in the name or on behalf of another person, not being lawfully authorized thereunto, and knowing himself not to be so authorized, is guilty of a contempt of Court.

112. (1.) In any case, criminal or civil, and at any stage thereof, the Court, either of its own motion or on the application of any party, may summon a British subject to attend to give evidence, or to produce documents, or to be examined.

(2.) If the person summoned, having reasonable notice of the time and place at which he is required to attend, and his reasonable expenses having been paid or tendered, fails to attend and be sworn, and give evidence, or produce documents or submit to examination accordingly, and does not excuse his failure to the satisfaction of the Court, he shall be guilty of an offence against this Order.

(3.) If in any case, civil or criminal, a British subject wilfully gives false evidence on oath in the Court, or on a reference, he shall be deemed guilty of wilful and corrupt perjury.

113. (1.) Whenever under this order any person is to be taken for trial or imprisonment to the Court for Siam, or elsewhere in Siam, or to Singapore, England or elsewhere, the Court or other authority by this order authorized to cause him to be so taken, may for that purpose (if necessary) cause him to be embarked on board one of His Majesty's vessels of war, or if there is no such vessel available, then on board any British or other fit vessel, at any port or place, whether within or beyond the particular jurisdiction or district of that Court or authority, and in order to such embarkment may (if necessary) cause him to be taken, in custody or otherwise, by land or by water, from any place to the port or place of embarkment.

(2.) The writ, order, or warrant of the Court, by virture whereof any person is to be so taken shall be sufficient authority to every constable, officer, or other person acting thereunder, and to the commander or master of any vessel of war, or other vessel (whether the constable, officer, or other person, or the vessel or the commander or master thereof, is named therein or not), to receive, detain, take, and deliver up such person, according to the writ, order, or warrant.

(3.) Where the writ, order, or warrant is executed under the immediate direction of the Court or authority issuing it, the writ, order, or warrant shall be delivered to the constable, officer, or other person acting thereunder, and a duplicate thereof shall be delivered to the commander or master of any vessel in which the person to whom the writ, order, or warrant relates is embarked.

(4.) Where the writ, order, or warrant issues from the Court for Siam, and is executed by a District Court, a copy thereof, certified under the seal of the Court executing the same, shall be delivered to the constable, officer, or other person acting thereunder, and to the commander or master of any vessel in which the person taken is embarked; and any such copy shall be for all purposes conclusive evidence of the order of which it purports to be a copy.

114. Subject to the other provisions of this Order, all expenses of removal of prisoners and others from or to any place in Siam, or from or to Singapore, and the expenses of deportation and the expenses of sending of any person to England or elsewhere shall be defrayed in such manner as the Secretary of State from time to time directs.

Any master of a British ship when required shall be bound to take such persons for a reasonable remuneration, to be determined by the Judge of the Court for Siam, and in case of non-compliance shall be liable to a penalty not exceeding £ 50.

115. The following Acts, namely:—

"The Foreign Tribunals Evidence Act, 1856."

"The Evidence by Commission Act, 1859."

"The Evidence by Commission Act, 1885," or so much thereof as is for the time being in force, and any enactment for the time being in force, amending or substituted for the same, are hereby extended to Siam, with the adaptation following, namely:—

In the said Acts the Court for Siam is hereby substituted for a Supreme Court in a Colony.

116. The following Acts, namely:—

"The British Law Ascertainment Act, 1859."

"The Foreign Law Ascertainment Act, 1861," or so much thereof as is for the time being in force, and any enactment for the time being in force, amending or substituted for the same, are hereby extended to Siam, with the adaptation following, namely:—

In the said Acts the Court for Siam is hereby substituted for a Superior Court in a Colony.

117. "The Public Authorities Protection Act, 1893," shall extend and apply to Siam as if Siam were therein mentioned in place of the United Kingdom, and as if this Order and any other Order relating to Siam, and any Regulations or Rules made under any such Order were therein referred to, in addition to any Act of Parliament.

118. The Court for Siam may, if it thinks fit, order that a Commission do issue for examination of witnesses at any place out of Siam on oath, by interrogatories or otherwise, and may by order give such directions touching the time, place, and manner of the examination, or anything connected therewith, as to the Court appear reasonable and just.

PART VI.—BILLS OF SALE.

119. The provisions of this Order relating to bills of sale—

(1.) Apply only to such bills of sale executed by British subjects as are intended to affect chattels in Siam ;

(2.) Do not apply to bills of sale given by sheriffs or others under or in execution of process authorizing seizure of chattels.

120. (1) Every bill of sale must conform with the following rules (namely) :—

(a) It must state truly the name, description, and address of the grantor.

(b) It must state truly the consideration for which it is granted.

(c) It must have annexed thereto or written thereunder an inventory of the chattels intended to be comprised therein.

(d) Any defeasance, condition or declaration of trust affecting the bill not contained in the body of the bill must be written on the same paper as the bill.

(e) The execution of the bill must be attested by a credible witness, with his address and description.

(2) Otherwise, the bill is void in Siam to the extent following, but not further (that is to say) :—

(a) In the case of failure to conform with the rule respecting an inventory as far as regards chattels omitted from the inventory ; and

(b) In any other case, wholly.

(3) The inventory, and any defeasance, condition, or declaration as aforesaid, respectively, is for all purposes deemed part of the bill.

121. A bill of sale conforming, or appearing to conform, with the foregoing rules, may be registered, if it is intended to affect chattles in Siam at the Consulate of the Consular district wherein the chattels are ; within the respective time following and not afterwards (namely) :—

(1.) Within fourteen days after its execution, where it is executed in the Consular district wherein the chattels are ;

(2.) Within two months after its execution, where it is executed in Siam elsewhere than in that Consular district ;

(3.) Within six months after its execution, where it is executed elsewhere than in Siam.

122. Registration is made as follows : The original and a copy of the bill of sale, and an affidavit verifying the execution, and the time and place of execution, and the attestation thereof, and verifying the copy, are brought into the proper office of the Consulate ; and the copy and affidavit are left there.

123. If a bill of sale is not registered at a place and within the time by this Order appointed and allowed for registration thereof, it is, from and after the expiration of that time, void in Siam to the extent following, but not further (that is to say) :—

(1.) As against trustees or assignees of the estate of the grantor, in or under bankruptcy, liquidation, or assignment for benefit of creditors ; and

(2.) As against all sheriffs and others seizing chattels under process of any Court, and any person on whose behalf the seizure is made ; but only

(3.) As regard the property in, or right to, the possession of such chattels comprised in the bill as, at or after the filing of the petition for bankruptcy or liquidation, or the execution of the assignment, or the seizure, are in the grantor's possession, or apparent possession.

124. Registered bills of sale affecting the same chattels have as among themselves priority in order of registration.

125. Chattels comprised in a registered bill of sale are not in the possession, order, or disposition of the grantor within the law of bankruptcy.

126. If in any case there is an unregistered bill of sale, and within or on the expiration of the time by this Order allowed for registration thereof, a subsequent bill of sale is granted affecting the same or some of the same chattels, for the same or part of the same debt, then the subsequent bill is, to the extent to which it comprises the same chattels and is for the same debt absolutely void, unless the Court is satisfied that the subsequent bill is granted in good faith for the purpose of correcting some material error in the prior bill and not for the purpose of unlawfully evading the operation of this Order.

127. The registration of a bill of sale must be renewed once at least every five years.

128. Renewal of registration is made as follows: An affidavit stating the date of and parties to the bill of sale, and the date of the original registration, and of the last renewal, and that the bill is still a subsisting security, is brought in to the proper office of the Consulate of original registration, and is left there.

129. If the registration of a bill of sale is not so renewed in any period of five years, then on and from the expiration of that period the bill is deemed to be unregistered.

130. The provisions of this Order relating to renewal apply to bills of sale registered under the Orders in Council repealed by this Order.

131. A transfer or assignment of a registered bill of sale need not be registered; and renewal of registration is not necessary by reason only of such a transfer or assignment.

132. Where the time for registration or renewal of registration of a bill of sale expires on a Sunday, or other day on which the office for registration is closed, the registration or renewal is valid if made on the first subsequent day on which the office is open.

133. If in any case the Court for Siam is satisfied that failure to register or to renew the registration of a bill of sale in due time, or any omission or misstatement connected with registration or renewal, was accidental or inadvertent, the Court may, if it thinks fit, order the failure, omission, or misstatement to be rectified in such manner and on such terms, if any, respecting security, notice by advertisement or otherwise, or any other matter, as the Court thinks fit.

134. The provisions of this Order apply to a bill of sale executed before the commencement of this Order.

135. The power conferred on the Judge of the Court for Siam by this Order of framing Rules from time to time, extends to the framing of Rules for prescribing and regulating the making and keeping of indexes, and of a general index, to the registers of bills of sale, and searches in those indexes, and other particulars connected with the making, keeping, and using of those registers and indexes, and for authorizing and regulating the unregistering of any bill of sale, or the registering of any release or satisfaction in respect thereof.

PART VII.—KING'S REGULATIONS.

136. (1.) The Minister shall have power to make Regulations (to be called King's Regulations) for the following purposes, that is to say :—

(*a*) For the peace, order, and good government of British subjects within Siam in relation to matters not provided for by this Order.

(*b*) For securing the observance of any Treaty for the time being in force relating to any place within Siam, or of any native or local law or custom, whether relating to trade, commerce, revenue, or any other matter.

(*c*) For preventing the importation or exportation in British ships or by British subjects of any munitions of war, or any parts of ingredients thereof, where it appears to the Minister that such munitions of war are intended or are likely to be used against any Power with which His Majesty is at peace, or against His Majesty.

(*d*) For requiring Returns to be made of the nature, quantity, and value of articles exported from or imported into his district, or any part thereof, by or on account of any British subject who is subject to this Order, or in any British ship, and for prescribing the times and manner at or in which and the persons by whom, such Returns are to be made.

(2.) Any Regulations made under this Article may provide for forfeiture of any goods, receptacles, or things in relation to which, or to the contents of which, any breach is committed of such Regulations, or of any Treaty or any Native or local law or custom, the observance of which is provided for by such Regulations.

(3.) Any person committing a breach of any such Regulations shall, in addition to any forfeiture prescribed thereby, be liable, on conviction, to imprisonment for a period not exceeding three months, or to a fine, or to both.

(4.) Any fine imposed for a breach of Regulations shall not exceed £50; provided that where the breach is of any Regulation relating to customs law, or to the importation or exportation of any goods, the fine may extend to a sum equivalent to treble the value of the goods in relation to which the breach is committed.

137. (*a.*) Regulations made under this order shall not have effect unless and until they are approved by a Secretary of State ; save that, in case of urgency declared in any such Regulations, the same shall take effect before that approval, and shall continue to have effect unless and until they are disapproved by a Secretary of State, and until notification of that disapproval has been received and published by His Majesty's Minister.

(*b.*) That approval, where given, shall be conclusive, and the validity or regularity of any Regulations so approved shall not be called in question in any legal proceeding whatever.

138. (1.) All Regulations made under this Order, whether imposing penalties or not, shall be printed, and a printed copy thereof shall be affixed, and be at all times kept exhibited conspicuously in the public office of each Consulate in Siam.

(2.) Printed copies of the Regulations shall be kept on sale at such reasonable price as His Majesty's Minister from time to time directs.

(3.) A printed copy of any Regulations purporting to be made under this Order, and to be certified under the hand of the Minister, or under the hand and Consular seal of one of His Majesty's Consular officers in Siam, shall be conclusive evidence of the due making of such Regulations.

139. The respective powers aforesaid extend to the making of Regulations for the governance, visitation, care, and superintendence of prisons in Siam, and for the infliction of corporal or other punishment on prisoners committing offences against the rules or discipline of a prison; but the provisions of this Order respecting penalties, and respecting the printing, affixing, exhibiting, and sale of Regulations, and the mode of trial of charges of offences against the Regulations, do not apply to Regulations respecting prisons and offences of prisoners.

PART VIII.—REGISTRATION.

140. A register of British subjects shall be kept in the office of every Consulate in Siam.

141. Every British subject, resident or arriving in Siam, being of the age of 21 years or upwards, or being married, or a widower or widow, though under that age, may, subject to the provisions of this Order, be registered in a Consular register.

142. The registration of a man shall comprise the registration of his wife, or wives, if living with him; and the registration of the head of a family shall comprise the registration of all females or minors, being his relatives, in whatever degree, living under the same roof with him at the time of his registration.

143. A British subject resident in Siam shall not be registered elsewhere than in the register of the Consular district in which he resides; but a person arriving in Siam may be registered either in the register of the Consular district in which he first arrives, or in that of the district in which he goes to reside.

144. A person arriving in Siam, and not already registered, must apply for registration within one month after arrival; a person resident in Siam must apply for registration in January in every year: Provided that a person who fails to obtain registration within the time so limited may be registered at any time if he excuses his failure to the satisfaction of the Consular officer.

145. A person registered in any register of British subjects established under any Order in Council repealed by this Order, shall be registered under the provisions of this Order, unless the Consular officer is satisfied, after enquiry, that the previous registration was erroneous, or that such person is not entitled to registration under the provisions of this Order.

146. The Consular officer shall on every registration give to the person registered a certificate of registration signed by him, and sealed with his Consular seal.

147. The name of a wife, if her registration is under the provisions of this Order comprised in her husband's, shall be endorsed on the husband's certificate.

148. The names and descriptions of females and minors, whose registration is under the provisions of this Order comprised in that of the head of a family, shall be indorsed on the certificate of the head of the family.

149. Every person applying to be registered under this Order shall, unless excused by the Consular officer, attend personally for that purpose at the Consulate on each occasion of registration.

150. Every person shall, on every registration of himself, pay a fee of 2*s.* 6*d.*, or such other fee as the Secretary of State from time to time ap oint. The amount of the fee may be uniform for all persons, or may vary according to the position and circumstances of different classes if the Secretary of State from time to time so directs, but may not in any case exceed 5*s.*

151. If any British subject fails to obtain registration under the provisions of the Order, he shall not be entitled to be recognized or protected as a British subject in Siam, but he shall, although not registered, be subject to the jurisdiction of His Majesty's Consular Courts in Siam.

Provisio s affe ting particular Classes cf British Subjects.

152. A person, not of Asiatic descent, arriving in Siam and applying to be registered as a British subject, shall be so registered if the Consular officer is satisfied, after such inquiry as he may deem fit, that he is entitled to the status of a British subject.

153. A person of Asiatic descent arriving in Siam and applying to be registered as a British subject, shall be so registered if he (*d*) produces a passport as a British subject from British India or a British possession ; or (*b*) files an affidavit or sworn declaration showing that he was born within His Majesty's dominions or within the territory of any Prince or State in India under the suzerainty or in alliance with His Majesty, or that he has been naturalized in the United Kingdom ; and (*c*) in either case gives satisfactory evidence of his identity.

154. A person born in Siam, being the child of a person of Asiatic descent who arrived in Siam, may be registered as a British subject if it is proved that the father (*a*) was registered as a British subject at the time of the child's birth ; or (*b*) being entitled was prevented from being so registered by causes for wh ch he was not responsible.

Any child of a person registered under the provisions of this Article shall not be entitled to be registered as a British subject by reason only that his father and grandfather were so registered.

155. A person of Asiatic descent, being a native of Upper Burmah or of the British Shan States, shall not be registered as a British subject if it appears that he arrived in Siam before the 1st January 1886, and has become domiciled there.

156. A woman, being the widow of a person of Asiatic descent, who was in his lifetime registered as a British subject, shall be registered as a British subject if her name appears on the last certificate given to her husband before his death, but not otherwise.

157. The Consular officer may, without fee, register any British subjects, being minors living in the houses of foreigners or Siamese subjects.

All registers kept under any Order repealed by this Order shall continue in force until superseded by registers kept under this Order.

PART IX.—INTERNATIONAL COURT.

Whereas by a Treaty made the 3rd day of September, 1883, between Her late Majesty Queen Victoria and His Majesty the King of Siam, it was amongst other things agreed as follows :—

> "Article VIII. His Majesty the King of Siam will appoint a proper person or proper persons to be a Commissioner and Judge, or Commissioners and Judges, in Chiengmai for the purposes hereinafter mentioned. Such Judge or Judges shall, subject to the limitations and provisions contained in the present Treaty, exercise civil and criminal jurisdiction in all cases arising in Chiengmai, Lakon, and Lampoonchi, between British subjects, or in which British subjects may be parties as complainants, accused, plaintiffs or defendants according to Siamese Law : provided always that in all such cases the Consul or Vice-Consul shall be entitled to be present at the trial, and to be furnished with copies of the proceedings, which, when the defendant or accused is a British subject, shall be supplied free of charge, and to make any suggestions to the Judge or Judges which he may think proper in the interest of justice : provided also that the Consul or Vice-Consul shall have power at any time before judgment if he shall think proper in the interests of justice, by a written requisition under his hand, directed to the Judge or Judges, to signify his desire that any case in which both parties are British subjects, or in which the accused or defendant is a British subject, be transferred for adjudication to the British Consular Court at Chiengmai, and the case shall thereupon be transferred to such last-mentioned Court accordingly, and be disposed of by the Consul or Vice-Consul, as provided by Article II of the Supplementary Agreement of the 13th May 1856:"

And whereas the IXth Article of the said Treaty provides for the decision of appeals from the said Commissioners or Judges :

And whereas in pursuance of the said Treaty His Majesty the King of Siam has from time to time appointed Commissioners or Judges for the purposes mentioned in the said Article, and civil and criminal jurisdiction has been and is exercised in Chiengmai subject to the limitations and provisions contained in the said Treaty :

And whereas in pursuance of powers reserved in the said Treaty, it was agreed between Her said Majesty and His Majesty the King of Siam that the limits within which the jurisdiction of the said Commissioners and Judges under, and for the purposes of, the said Treaty shall be extended to the Provinces of Muang Nan, Phre, Muang Thon, Raheng, Sawankaloke, Sukotai, Utaradit, and Pichai :

And whereas such limits of jurisdiction may hereafter be further extended :

It is hereby ordered as follows :—

158. In this Part the expression "the International Court" means the Court of any Commissioners or Judges exercising jurisdiction at Chiengmai in pursuance and under the provisions of the said recited Treaty as modified by any subsequent Agreement, whether made before or after the passing of this Order.

The expression "limits of the International Court" means the provinces and parts of provinces to which the jurisdiction of that Court for the time being extends.

159. With respect to any civil or criminal case arising within the limits of the International Court between British subjects, or in which British subjects may be parties as complainants, accused, plaintiffs or defendants, the principal Order shall not operate or have any effect so long as the said Treaty continues in force, unless and until such case shall have been transferred to the District Court at the Chiengmai in manner provided by the said Treaty.

160. Where a case is so transferred, the District Court shall give such directions as seem proper for its determination, having regard to the proceedings (if any) in the International Court.

In a criminal case, if the accused is handed over by the International Court in custody, he may be detained in custody as if on the day on which he is handed over he had been arrested under a warrant of the District Court.

161. Where, in pursuance of the IXth Article of the said Treaty, an appeal is brought to Bangkok from any Siamese Judge or Judges, Commissioner or Commissioners, the Minister shall take such steps as may be directed by the Secretary of State, in order that

the final decision on appeal may be recorded at Bangkok and duly transmitted to the Court from which the appeal is brought, and in order that effect may be given thereto by such Court.

PART X.—FOREIGN SUBJECTS AND TRIBUNALS.

162. (1.) Where a Siamese or foreigner desires to institute or take in the Court an action against a British subject, or a British subject desires to institute or take in the Court an action against a foreigner, the Court shall entertain the same, and shall hear and determine it, either by the Court sitting alone, or, if all parties desire, or the Court, having regard to its jurisdiction, thinks fit to direct, a trial with a jury or assessors, then with a jury or assessor, but in all other respects according to the ordinary course of the Court.

(2.) Provided that the Siamese or foreigner, if so required by the Court, first obtains and files in the Court the consent in writing of the competent authority on behalf of his own nation to his submitting, and does submit, to the jurisdiction of the Court, and, if required by the Court, give security to the satisfaction of the Court, and to such reasonable amount as the Court thinks fit, by deposit or otherwise, to pay fees, damages, costs, and expenses, and abide by and perform such decision as shall be given by the Court or on appeal.

(3.) A cross-action shall not be brought in the Court against a plaintiff, being a Siamese or foreigner.

(4.) Where a Siamese or foreigner obtains in the Court an order against a defendant being a British subject, and in another suit that defendant is plaintiff and the Siamese or foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit.

(5.) Where a plaintiff, being a Siamese or foreigner, obtains an order of the Court against two or more defendants being British subjects jointly, and in another action one of them is plaintiff and the Siamese or foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other action, and may set off any amount ordered to be paid by one party in one action against any amount ordered to be paid by the other party in the other action, without prejudice to the right of the British subject to require contribution from his co-defendants under the joint liability.

(6.) Where a Siamese or foreigner is co-plaintiff in a suit with a British subject who is within the particular jurisdiction, it shall not be necessary for the foreigner to give security for costs, unless the Court so directs, but the co-plaintiff British subject shall be responsible for all fees and costs.

163. (1.) Where it is proved that the attendance within the particular jurisdiction of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a Court of Siam or before a Siamese judicial officer or in a Court or before a judicial officer of a State in amity with His Majesty, the Court may, if it thinks fit, in a case and in circumstances in which the Court would require his attendance before the Court, order that he do attend in such Court, or before such judicial officer, and for such purpose as aforesaid.

(2.) A District Court, however, cannot so order attendance at any place beyond its particular jurisdiction.

(3.) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the Court, he shall (independently of any other liability) be guilty of an offence against this Order.

164. When a British subject invokes or submits to the jurisdiction of a Siamese or foreign Tribunal, and engages in writing to abide by the decision of such Tribunal or to pay any fees or expenses ordered by such Tribunal to be paid by him, the Court for Siam or any District Court may, on such evidence as it thinks fit to require, enforce payment of such fees and expenses in the same manner as if they were fees payable in a proceeding by such person in that Court, and shall pay over and account for the same when levied to the proper Siamese or foreign authority, as the Court may direct.

PART X.—MISCELLANEOUS.

165. Where, by virtue of any Imperial Act or of this Order or otherwise, any provision of any Imperial Acts, or of any Law or of any Orders in Council other than this Order are applicable in Siam, or any Form, Regulation, or procedure prescribed or established by or under any such Act, or Law or Order, are made applicable for any purpose of this Order, such Act, Law, Order, Form, Regulation, or procedure shall be deemed applicable so far only as the constitution and jurisdiction of the Courts and the local circumstances permit; and, for the purpose of facilitating application, may be construed or used with such alterations and adaptations as may be necessary, and anything required to be done by, to, or before any Court, Judge, officer, or authority may be done by, to, or before a Court, Judge, officer, or authority having the like or analogous functions, or by, to, or before any officer designated by the Secretary of State or by the Court (as the case may require) for that purpose; and the seal of the Court may be substituted for any other seal; and in case any difficulty occurs in the application, it shall be lawful for the Secretary of State to direct by, to, or before whom and in what manner anything is to be done, and such Act, Law, Order, Form, Regulation, or procedure shall be construed accordingly.

166. Nothing in this Order shall deprive the Court of the right to observe and to enforce the observance of, or shall deprive any person of the benefit of, any reasonable custom existing in Siam, unless this Order contains some express and specific provision incompatible with the observance thereof.

167. Nothing in this Order shall prevent any Consular officer in Siam from doing anything which His Majesty's Consuls in the dominions of any other State in amity with His Majesty are, for the time being, by law, usage, or sufferance, entitled or enabled to do.

168. Section 48 of "The Conveyancing and Law of Property Act, 1881" (which relates to the deposit of instruments creating powers of attorney in the Central Office of the Supreme Court in England or Ireland) shall apply to Siam with these modifications, that is to say: the Office of the Court of Siam is substituted for the Central Office, and Rules of Court under this Order are substituted for General Rules.

169. Sums of money, fines, forfeitures, or fees, payable under this Order shall be calculated and paid in English money, or with the consent of the Court, in its equivalent in local currency, or bills of exchange approved by the Court.

170. Except as in this Order otherwise provided, all fees, dues, fines, and other receipts under this Order shall be carried to the public account, and shall be accounted for and paid as the Secretary of State, with the concurrence of the Treasury, directs.

171. Not later than the 31st March in each year, the Judge shall send to the Secretary of State a report on the operation of this Order up to the 31st January in that year, showing for the then last twelve months the number and nature of the proceedings, criminal and civil, taken in the Courts under this Order, and the result thereof, and the number and amount of fees received, and containing an abstract of the registration list, and such other information, and being in such form, as the Secretary of State from time to time directs.

172. Each District Court shall at such time as may be fixed by Rules of Court to furnish to the Court for Siam an annual report of every case, civil and criminal, brought before it, in such form as the Court for Siam directs.

173. (1.) A printed copy of this Order shall be always kept exhibited in a conspicuous place in each Consular office and in each Court-house.

(2.) Printed copies shall be sold at such reasonable price as the Minister directs.

(3.) Judicial notice shall be taken of this Order, and of the commencement thereof, and of the appointment of Consuls, and of the constitution and limits of the Courts and districts, and of Consular seals and signatures, and of any Rules made or in force under this Order, and no proof shall be required of any of such matters.

The provisions of "The Evidence Act, 1851" (14 & 15 Vict., cap. 99), sections 7 and 11, relating to the proof of judicial and other documents, shall extend and be applied for all purposes as if the Courts, districts, and places to which this Order applies were in a British Colony.

174. (1.) The Orders in Council mentioned in the Schedule to this Order are hereby repealed, but this repeal shall not—

(i) Affect the past operation of those Orders, or any of them, or any appointment made, or any right, title, obligation, or liability accrued or the validity or invalidity of anything done or suffered under any of those Orders, before the making of this Order;

(ii) Interfere with the institution or prosecution of any proceeding or action, criminal or civil, in respect of any offence committed against, or forfeiture incurred or liability accrued under or in consequence of any provision of any of those Orders, or any Regulation made thereunder;

(iii) Take away or abridge any protection or benefit given or to be enjoyed in relation thereto.

(2). Notwithstanding the repeal of the Orders aforesaid, or any other thing in this Order, every Regulation, appointment, and other thing in this Article mentioned shall continue and be as if this Order had not been made; but so that the same may be revoked, altered, or otherwise dealt with under this Order, as if it had been made or done under this Order.

(3.) Criminal or civil proceedings begun under any of the Orders in Council repealed by this Order, and pending at the time when this Order comes into operation, shall, from and after that time, be regulated by the provisions of this Order, as far as the nature and circumstances of each case admits.

(4.) Lists of jurors and assessors in force at the passing of this Order shall continue in force until revised and settled under the provisions of this Order.

175. (1.) This Order shall take effect at the expiration of one month after it is first exhibited in the public office of the Court for Siam.

(2.) For that purpose the Judge shall forthwith, on the receipt by him from the Minister of a certified printed copy of this Order, cause the same to be affixed and exhibited conspicuously in that office.

(3.) He shall also keep the same so affixed and exhibited during one month from that first exhibition.

(4.) Notice of the time of that first exhibition shall, as soon as practicable, be published at each of the Provincial Consulates in such manner as the Court for Siam may direct.

(5.) Proof shall not in any proceeding or matter be required that the provisions of this Article have been complied with, nor shall any act or proceeding be invalidated by any failure to comply with any of such provisions.

(6.) The day on which this Order so takes effect is in this Order referred to as the commencement of this Order.

(7.) Where this Order confers powers to make any appointment, Rules, or Regulations, or to do any other thing for the purposes of this Order, that power may be exercised at any time after the passing of this Order, so, however, that any such appointment, Rules, or Regulations shall not take effect before the commencement of this Order.

A. W. FITZROY.

SCHEDULE.

Orders in Council Repealed.

The Siam Order in Council, 1889.

The Siam Order in Council, 1898.

The Siam (Registration) Order in Council, 1900.

L. W. DANE,

Secretary to the Government of India.

FINANCE AND COMMERCE DEPARTMENT.

NOTIFICATIONS.

SEPARATE REVENUE

COTTON DUTIES.

Calcutta, the 18th December 1903.

No. 7778-S. R.—In exercise of the power conferred by section 7 of the Cotton Duties Act, 1896 (II of 1896), and in supersession of the Notification in this Department No. 6948-S. R., dated the 29th December 1902, the Governor-General in Council is pleased to fix, for the descriptions of cotton goods hereunder specified, tariff values as follows, with effect from the 1st January 1904 :—

Grey goods, plain or bordered.

		Tariff value per lb.	
		a.	p.
1.	Blankets and blanketings, raised	8	0
2.	Chadars and bed-sheets, plain, or with borders not over ¼"	7	0
3.	Dangari cloth	7	3
4.	Dhutis, cholas, dupattas, and lungis, plain, or with borders not over ¼" ...	7	6
5.	" " " " " " over ¼" but not over 1½"	8	0
6.	Dhutis and patals with headings over 4" wide and coloured borders ...	9	0
7.	Domestics, T cloths, shirtings, longcloth, sheetings with borders not over ¼"	7	3
8.	Drills and jeans, plain	7	3
9.	Fents	6	3
10.	Printers	7	6
11.	" (bhagavad)	7	3
12.	Shirtings, twilled, unbleached	9	0
13.	" " bleached	10	0
14.	Tent, sail, commissariat, and double cloth (dosuti)	6	9
15.	Zanzibar cloth, including American cloth	7	0

Provided that for calendered grey goods 3 pies shall be added to the above values.

Figured or coloured goods.

		Tariff value per lb.	
		a.	p.
16.	Bed-covers, quilts, twilled sheets, twilled chadars, and table cloths, with borders not over ¼"	7	6
17.	Bed-covers, quilts, twilled sheets, twilled coloured warp or weft ...	8	6
18.	" " " " " " " and weft ...	9	6
19.	Bed ticking, plain or drilled	9	0
20.	Chadars, twilled, coloured (shawl checks)	12	9
21.	" not twilled, coloured, calico wove, shawl pattern	10	3
22.	Cholis and saris (coloured)	11	3
23.	Cotton tweed, commonly called hunting cloth, plain or striped, including leheria, Thana susi, Thana twill, and Thana check	10	3
24.	Other cotton tweeds and English checks, trouserings and coatings ...	10	6
25.	Drills and jeans, striped	8	6
26.	" " " checked	9	3
27.	Fents	7	3
28.	Lungis, unbleached, coloured stripes and borders	8	6
29.	" coloured	10	6

		Tariff value per lb. a. p.
30.	Madras cloth	9 6
31.	" " (imitation)	9 3
32.	" " twilled, checked, coloured warp and weft	9 9
33.	" " handkerchiefs or lungis	12 3
34.	Napkins, unbleached	8 0
35.	" bleached	9 0
36.	Susi, ordinary, coloured stripes grey ground	8 6
37.	" " " weft	9 0
38.	Ordinary susi checks, grey ground	9 6
39.	" " " coloured warp or weft	9 9
40.	Fancy dobby pattern checks, coloured warp and weft	10 9
41.	Flannel pattern susi and dobby susi, grey weft	9 0
42.	" " " " " coloured weft...	9 6
43.	Towels, Turkish, unbleached	9 0
44.	" " bleached	10 0
45.	" " honeycomb, unbleached	7 9
46.	" " " bleached	8 9
47.	Zephyr cloth	9 3
48.	" " striped and checked	10 9

Provided that any goods specified in the foregoing lists shall, when woven with borders of silk, be assessed to duty *ad valorem.*

SEPARATE REVENUE.

POST OFFICE.

The 18th December 1903.

No. 7784-*S. R.*—In exercise of the powers conferred by Section 7 of the Indian Post Office Act, 1898 (VI of 1898), the Governor-General in Council is pleased to direct that with effect from the 1st January 1904, the following amendment shall be made in the rules published in the Notification of the Government of India in the Department of Finance and Commerce, No. 1429-C. S. R., dated the 30th March 1899, as amended by Notification No. 3566-S. R., dated the 4th August 1899 :—

In Rule 1, under the head "*Registered Newspapers*" *for* the rates of postage given there *substitute* the following :—

For a newspaper not exceeding 6 tolas in weight	One quarter of an anna.
For a newspaper exceeding 6 tolas but not exceeding 20 tolas in weight	Half an anna.
For every additional 20 tolas or part of that weight	Half an anna.

E. N. BAKER,

Secretary to the Government of India.

MILITARY DEPARTMENT.

Fort William, the 18th December 1903.

VOLUNTEER CORPS.

APPOINTMENTS, PROMOTIONS, AND RESIGNATIONS.

2nd Punjab (Simla) Volunteer Rifles.

No. 1211.—Lieutenant William Douglas Braithwaite, supernumerary list, resigns his commission, with effect from the 16th November 1903.

North-Western Railway Volunteer Rifles.

No. 1220.—In Military Department Notification No. 1142, of 1903, *for* "Charles John Keene, V. D." *read* "Charles James Keene, V. D."

Second-Lieutenant Alfred James Chase, to be Lieutenant, with effect from the 18th November 1903, *vice* Gardiner, transferred to the Lucknow Volunteer Rifle Corps.

Second-Lieutenant Arthur Terance Stowell, to be Lieutenant, with effect from the 18th of November 1903, *vice* Inglis, promoted.

E. G. BARROW, *Major-General, C.*,
Secretary to the Government of India.

TELEGRAPH DEAPARTMENT.

NOTIFICATION.

Calcutta, the 17th December 1903.

No. 39.—The Governor General in Council has been pleased to direct, that from New Year's Day, the 1st of January 1904, the following revised rates for Inland Telegrams shall be introduced:—

(1) *For Inland (Private or State) telegrams.*

Class.	Unit No. of words.	Unit rate.	Each additional word.	Address.
		Rs. A. P.	Rs. A. P.	
Urgent	16	2 0 0	0 4 0	Charged for.
Ordinary	16	1 0 0	0 2 0	Ditto.
Deferred	4	0 4 0	0 1 0	Six words free.

(2) *For Inland Press telegrams.*

Class.	Unit No. of words.	Unit rate.	Each additional six words.	Address.
		Rs. A. P.	Rs. A. P.	
Ordinary	48	1 0 0	0 2 0	Charged for.
Deferred	48	0 8 0	0 1 0	Six words free.

Press telegrams, though classed for the purposes of the tariff Schedule as "Ordinary" and "Deferred," will receive the privilege of being despatched as if they were classed "Urgent" and "Ordinary," respectively. Multiple Press telegrams will be charged for as in Rule 109 in Section II of the **Telegraph Guide** whether all the addressees are in the same town or not. A single Press telegram must not exceed 240 words (5 units of charge). Long news messages must be broken up into separate telegrams, all of which must be numbered and each of which, except the last, must contain the words **More to follow.** These words and the numbers should be written by the Sender in the space left in the telegram for **Official Instructions** and they will not be charged for.

The address includes the name of the office to which the telegram is to be transmitted, the name, or designation (or both), and the address of the Addressee, and, at the Sender's option, his own name, or designation (or both), and his address. In the case of Deferred telegrams, no other words may be included in the number of words to be allowed free. The name of the office to which the telegram is to be transmitted is to be counted as one word irrespective of the actual number of words, and initials, it may contain. For instance, **Malia Hatina B. G. J. P.** in "Station to" will count as one word.

The Sender's name or designa may be in an abbreviated form or may be omitted altogether.

The name of the office of origin, and the Sender's Special Instructions such as *Reply prepaid one rupee, Express paid, etc.*, will not be charged for.

G. HUTCHINSON,

Director-General of Telegraphs.

THE HONOURABLE THE AGENT TO THE GOVERNOR GENERAL AND CHIEF COMMISSIONER, NORTH-WEST FRONTIER PROVINCE.

NOTIFICATION.

EXAMINATION.

Peshawar, the 14th December 1903.

No. 264.—The following candidates are declared to have passed the prescribed tests in Pushtu by the Higher Standard at the examination held at Peshawar, Dera Ismail Khan, Mian Mir, and Quetta on the 26th and 27th October 1903 :—

(1) Lieutenant J. A. Brett, 35th Scinde Horse,—with credit.
(2) Captain G. E. Stewart, I.M.S.,—with credit.
(3) Captain C. E. Forestier Walker, R.G.A.
(4) 2nd Lieutenant W. Dent, 1st Cheshire Regiment.
(5) Mr. J. H. Heap, C.E., Personal Assistant to Engineer-in-Chief, North-Western Railway, Quetta.
(6) Lieutenant R. N. Macpherson, 40th Pathans.
(7) Lieutenant R. J. Ingham, R.G.A.
(8) Lieutenant R. Garratt, Assistant Commissioner, Peshawar.
(9) Lieutenant C. Kirkpatrick, "Queen's Own" Corps of Guides.
(10) Captain A. O. Lash, 113th Infantry.
(11) Mr. S. E. Peans, Political Agent, Kurram.
(12) No. 5427, Private T. McPhee, 1st Battalion, Royal Scots Fusiliers.
(13) Mr. J. Wilson-Johnston, Assistant Commissioner, Dera Ismail Khan.
(14) Lieutenant G. D. Ogilvie, 46th Punjabis.
(15) Lieutenant R. J. W. Heale, Supernumerary Assistant Commissioner, Punjab.
(16) Captain G. F. Mappin, 4th Dragoon Guards.
(17) Captain C. B. Loring, 37th Lancers.
(18) Captain C. Rattray, 26th Punjabis.
(19) Lieutenant P. A. R. Pritchard, 46th Punjabis.
(20) Private A. Stephen, 2nd Gordon Highlanders.
(21) Lieutenant A. H. Moberly, R. A.
(22) Sergeant A. M. Rose, Supply and Transport Corps.
(23) Captain F. Fisher, 107 Pioneers, Assistant Enumeration Officer, 3rd Circle.
(24) Lieutenant A. C. Tancock, Khyber Rifles.
(25) Captain W. F. Bainbridge, 51st Sikhs.
(26) Gunner J. Jansen, 3rd Battery, Royal Field Artillery.
(27) Major F. L. Sharpe, 30th Battery, Royal Field Artillery.
(28) Lieutenant W. A. Fetherstonhaugh, 8th Lancers.
(29) Lieutenant D. Munro, I.M.S.
(30) Mr. M. G. Wall, Officiating District Superintendent of Police, Bannu.
(31) Lieutenant F. R. Teesdale, 25th Cavalry.
(32) Assistant Surgeon F. H. Gleeson, I.S.M.D.

By order,

H. N. BOLTON,

Assistant Secretary to the Chief Commissioner, N.-W. F. Province.

Punjab Government Press, Lahore—24-12-03—630.

Government Gazette

PUNJAB AND IT'S DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, DECEMBER 31, 1903.

PART II.

Republications from the "Gazette of India"

FROM THE "GAZETTE OF INDIA," DATED DECEMBER 26, 1903.

DEPARTMENT OF REVENUE AND AGRICULTURE.

NOTIFICATION.

FORESTS.

Calcutta, the 23rd December 1903.

No. 1483-*F.*—244-3.— * * * * *

The following appointment is made during Mr. Hoghton's absence, or until further orders:—

Mr. C. P. Fisher, Deputy Conservator of Forests, 2nd Grade, Punjab, to officiate as Conservator, 3rd Grade, with effect from the 17th December 1903, the date on which he took over charge of the Southern Circle, Central Provinces.

J. WILSON,

Secretary to the Government of India.

Punjab Government Press, Lahore—31 12 03—630.

INDEX

TO

Punjab Government Gazette

FOR HALF YEAR ENDING

30TH JUNE 1903.

PART IV.

Civil Department.

Punjab Government PressLahore—10-9-03—585.

INDEX

TO

Punjab Government Gazette

FOR HALF YEAR ENDING

31ST DECEMBER 1903.

PART IV.

Civil Department.

Punjab Government Press, Lahore—3-3-04—600.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, FEBRUARY 12, 1903.

PART IV.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th January, 1903 :—

NO. 1 OF 1903.

A Bill to empower District Judges in certain cases to grant Probates of Wills and Letters of Administration having effect throughout British India.

WHEREAS it is expedient to empower District Judges in certain cases to grant probates of wills and letters of administration having effect throughout British India; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Probate and Administration Act, 1903.

Amendment of sections 187, 242, 242A., 244, 246 and 250, Act X, 1865.

2. In the Indian Succession Act, 1865, the following amendments shall be made, namely :—

(*1*) In section 187, for the words "within the Province" the words "in British India," and for the words "under the one hundred and eightieth section" the words "with the will, or with a copy of an authenticated copy of the will, annexed," shall respectively be substituted.

(*2*) In section 242, for the proviso the following proviso shall be substituted, namely :—

"Provided that probates and letters of administration granted—

(*a*) by a High Court after the first day of April, 1875, or

(*b*) by a District Judge, where the deceased at the time of his death had his fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property and estate affected beyond the limits of the Province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

(*3*) For section 242A the following section shall be substituted, namely :—

Transmission to other High Courts of certificate of grants under proviso to section 242.

"242A. (*1*) Where probate or letters of administration has or have been granted by a High Court or District Judge with the effect referred to in the proviso to section 242, the Registrar or such other officer as the High Court which made the grant, or to which the District Judge making the grant is subordinate, appoints in this behalf, shall send to each of the other High Courts a certificate to the following effect, namely :—

'I, *A. B.*, Registrar [*or as the case may be*] of the High Court of Judicature at

[*or as the case may be*], hereby certify that, on the day of , the High Court of Judicature [*or* District Judge] at [*or as the case may be*], granted probate of the will [*or* letters of administration of the estate] of *C. D.*, late of , deceased, to *E. F.* of and G. H. of and that such probate [*or* letters] has [*or* have], effect over all the property of the deceased throughout the whole of British India;'

and such certificate shall be filed by the High Court receiving the same.

(2) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 244 and 246, to be situate within the jurisdiction of a District Judge in another Province, the Registrar or other officer required to send the certificate referred to in sub-section (1) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same."

(4) To sections 244 and 246, respectively, the following paragraph shall be added, namely:—

"Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another Province, the petition shall further state the amount of such assets in each Province and the District Judges within whose jurisdiction such assets are situate."

(5) To section 250 the following paragraph shall be added, namely:—

"Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another Province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same manner as if it were a citation issued by himself."

V of 1881. 3. In the Probate and Administration Act, 1881, the following amendments shall be made, namely:—

Amendment of sections 59, 60, 62, 64 and 69, Act V, 1881.

(1) In section 59, for the proviso the following proviso shall be added, namely:—

"Provided that probates and letters of administration granted—

(*a*) by a High Court established by Royal Charter, or

(*b*) by the Chief Court of the Punjab or of Lower Burma, or

(*c*) by a District Judge, where the deceased at the time of his death had his fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property affected beyond the limits of the Province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

(2) For section 60 the following section shall be substituted, namely:—

"60. (1) Where probate or letters of administration has or have been granted by a Court with the effect referred to in the proviso to section 59, the Registrar or such other officer as the High Court or Chief Court which made the grant, or to which the District Judge making the grant is subordinate, appoints in this behalf, shall send to each of the other High Courts or Chief Courts, empowered to make such grants a certificate to the following effect, namely:—

'I, *A. B.*, Registrar [*or as the case may be*] of the High Court of Judicature at [*or as the case may be*], hereby certify that on the day of the High Court of Judicature [*or* Chief Court, *or* District Judge] at [*or as the case may be*] granted probate of the will [*or* letters of administration of the estate] of *C. D.*, late of , deceased, to *E. F.* of and *G. H.* of , and that such probate [*or* letters] has [*or* have] effect over all the property of the deceased throughout the whole of British India;'

and such certificate shall be filed by the Court receivin the same.

(2) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 62 and 64, to be situate within the jurisdiction of a District Judge in another Province, the Registrar or other officer required to send the certificate referred to in sub-section (1) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same."

(3) To sections 62 and 64, respectively, the following paragraph shall be added, namely:—

"Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another Province, the petition shall further state the amount of such assets in each Province and the District Judges within whose jurisdiction such assets are situate."

(4) To section 69 the following paragraph shall be added, namely:—

"Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another Province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same manner as if it were a citation issued by himself."

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to empower District Judges in certain cases to grant probates of wills and letters of administration having effect throughout British India. As the law at present stands, probates and letters of administration having effect throughout British India can be granted only by a High Court or a Chief Court, and this restriction has

been felt to be a hardship to the relatives of persons dying in up-country stations. It is proposed therefore to attach to the grant of probate or letters of administration by a District Judge the same territorial currency as that which is attached to a grant made by a High Court or Chief Court, but subject to the restrictions (1) that the deceased at the time of his death had his fixed place of abode situate within the jurisdiction of the District Judge, and (2) that the Judge certifies that the value of the property affected, beyond the limits of his Province, does not exceed ten thousand rupees.

2. Sufficient safeguards against injustice resulting from the proposed legislation appear to be afforded by section 263 of the Indian Succession Act, 1865 (X of 1865), and section 86 of the Probate and Administration Act, 1881 (Act V of 1881), under which every order made by a District Judge in the matter of probate or administration is appealable to the High Court; and also by the fact that a grant of probate merely perfects the representative title of an executor to the property which belonged to the deceased and over which the testator had a disposing power, but does not confer any title to property which the testator had no right to dispose of.

DENZIL IBBETSON.

The 19th January, 1903.

J. M. MACPHERSON,
Secretary to the Government of India.

(H)

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th January, 1903:—

NO. 2 OF 1903.

THE INDIAN TEA CESS BILL, 1903.

CONTENTS.

SECTIONS.

A Bill to provide for the levy of customs duty on Indian tea exported from British India, and to amend section 5 of the Indian Tariff Act, 1894.

WHEREAS it is expedient to provide for the creation of a fund to be expended for the promotion of the interests of the tea industry in India by a committee specially constituted in this behalf;

VIII of 1894. and whereas for this purpose it is expedient to levy customs duty on Indian tea exported from British India, and to amend section 5 of the Indian Tariff Act, 1894;

It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Tea Cess Act, 1903; and

(*2*) It extends to the whole of British India except Aden. [Cf. ... of 1... (2).]

Definitions.

2. In this Act,—

(*a*) "Collector" means, in reference to tea exported by sea, a Customs-collector as defined in clause (*c*) of section 3 of the Sea Customs Act, 1878, and, in reference to tea passing out of British India by land, the Collector of the district; VIII

(*b*) "tea cess" means the customs duty imposed by section 3 of this Act and by section 5 of the Indian Tariff Act, 1894, as amended by this Act; and

(*c*) "Tea Cess Committee" means the committee constituted under section 4.

Imposition of duty on exports of Indian tea.

3. On and from the first day of April, 1903, a customs duty shall be levied and collected on all Indian tea exported from any customs-port to any port beyond the limits of British India or to Aden at the rate of one-quarter of a pie per pound, or at such lower rate as the Governor General in Council may, on the recommendation of the Tea Cess Committee, prescribe by notification in the Gazette of India. [Cf. ... of 18.. Ceylo... nance 1894.]

Constitution of Tea Cess Committee.

4. (*1*) The Governor General in Council shall constitute a committee to receive and expend the proceeds of the tea cess. [Cf. Ordin... of 189...]

(*2*) The Committee shall in the first instance consist of twenty members, who shall be appointed by the Governor General in Council on the recommendation of the following bodies and authorities, namely:—

(*a*) three on the recommendation of the Bengal Chamber of Commerce;

(*b*) seven on the recommendation of the Indian Tea Association, Calcutta; and

(*c*) ten on the recommendation of such respective bodies or authorities interested in the production of Indian tea, and established in British India, as the Governor General in Council may appoint in this behalf:

Provided that if, within the period prescribed in this behalf by rules made under this Act, any of the said bodies or authorities fails to make any recommendation, or to make the full number of recommendations which it is entitled

to make, the Governor General in Council may appoint the required number of members of the Committee of his own motion without such recommendation.

(3) Whenever any member appointed either on the recommendation of any body or authority referred to in sub-section (2), or in default of such recommendation, dies, resigns, leaves British India or becomes incapable of acting as a member of the Committee, the Governor General in Council may, in his discretion, on the recommendation of such body or authority, or in default of such recommendation, appoint another person to be a member in his stead.

[Cf. Ben. Act III of 1899, s. 102 (1).]

(4) No act done by the Tea Cess Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Committee.

[Cf. Act VIII of 1894, s. 4.]

Application of proceeds of tea cess.

5. (1) At the close of each month, or as soon thereafter as may be convenient, the Collector shall pay the proceeds of the tea cess, after deducting the expenses of collection (if any), to the Tea Cess Committee.

[Cf. Ceylon Ordinance 4 of 1894, s. 3.]

(2) The said proceeds shall be applied by the Committee towards meeting the cost of such measures as the Committee may consider it advisable to take for pushing the sale and increasing the consumption of Indian tea in India and elsewhere.

[Cf. Ben. Act III of 1899, s. 142.]

Keeping and auditing of accounts.

6. (1) The Tea Cess Committee shall keep accounts of all money received and expended under section 5.

[Cf. ib, s. 143 (1).]

(2) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Governor General in Council; and such auditors may disallow any item which has, in their opinion, been expended out of the proceeds of the tea cess otherwise than as directed by or under this Act.

Power to make rules.

7. (1) The Governor General in Council may, after previous publication, make rules to carry out the purposes of this Act.

(2) All such rules shall be published in the Gazette of India.

VIII of 1894. [Cf. Act VIII 1878, s. 4.]

Amendment of Act VIII of 1894, section 5.

8. In section 5 of the Indian Tariff Act, 1894, for the words "shall be levied at the rates respectively prescribed in the second, third and fourth schedules on goods passing by land out of, and in the fifth schedule on goods passing by land into" the words "at such rates as may be prescribed by or under any law for the time being in force relating to customs duties on imports and exports, respectively, into and from ports, shall be levied on goods passing by land out of or into" shall be substituted.

[Cf. Act VIII of 1902, s. 1 (2); Ceylon Ordinance 4 of 1894, s. 4.]

Time during which sections 2 to 7 are to remain in force.

9. Sections 2 to 7 shall remain in force only until the thirty-first day of March, 1908:

Provided that the Governor General in Council may, on the recommendation of the Tea Cess Committee, declare, by notification in the Gazette of India, that the said sections shall continue in force for any further period specified in such notification.

Disposal of surplus proceeds of tea cess.

10. If any proceeds of the tea cess remain unexpended when sections 2 to 7 cease to be in force, they shall vest in His Majesty.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to provide for the levy of a small cess on Indian tea exported from British India, with the object of creating a fund for pushing the sale and increasing the consumption of such tea. It is proposed to entrust the administration of the fund to a special Committee, consisting of members representing the tea interest and recommended by local mercantile bodies. Those interested in the tea industry are practically unanimous in recommending that the proposed legislation should be undertaken.

2. The opportunity afforded by the present Bill has been taken to make an amendment in section 5 of the Indian Tariff Act, 1894 (VIII of 1894), which will have the effect of extending the proposed tea cess to exports to foreign territory by land.

MONTAGU C. TURNER.

The 28th January, 1903.

J. M. MACPHERSON,
Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MARCH 5, 1903.

PART IV.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th February 1903 :—

NO. 4 OF 1903.

A Bill to facilitate the citation of certain enactments, to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient to facilitate the citation of the enactments specified in the first schedule to this Act;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

And whereas it is also expedient that certain enactments specified in the third schedule to this Act, which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise b[illegible]ome unnecessary, should be expressly and specifically repealed;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Repealing and Amending Act, 1903.

Citation of certain enactments.

2. Each of the enactments described in the first three columns of the first schedule may, without rejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Amendment of certain enactments.

3. The enactments specified in the second schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Repeal of certain enactments.

4. The enactments specified in the third schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Savings.

5. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

VA

THE FIRST SCHEDULE.

SHORT TITLES.

(*See section 2.*)

1	2	3	4	5
Year.	No.	Title or subject.	Short title.	REMARKS.
		Part I.—Regulations of the Bengal Code.		
1793	XIX	A Regulation for re-enacting, with modifications, the rules passed by the Governor General in Council on the 1st December, 1790, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed bádsháhi or royal; and for determining the amount of the annual assessment to be imposed on lands so held which may be adjudged or become liable to the payment of public revenue.	The Bengal Revenue-free Lands (Non-Bádsháhi Grants) Regulation, 1793.	
"	XXXVII	A Regulation for re-enacting, with modifications, the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold Altámgha, jágir and other lands exempt from the payment of public revenue, under grants termed bádsháhi or royal; and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid.	The Bengal Revenue-free Lands (Bádsháhi Grants) Regulation, 1793.	
1794	III	A Regulation for prescribing the process by which Táhsildárs are to demand payment of arrears; and for enabling the Collectors to recover from Native officers employed under them public money or papers which they may embezzle or retain.	The Bengal Native Revenue-officers Regulation, 1794.	Only sections 13 and 16 to 20 of this Regulation are now in force.
1795	I	A Regulation for fixing in perpetuity the revenue assessed on the lands in the Province of Benares; for the more general restoration of the ancient zamindars.	The Benares Permanent Settlement Regulation, 1795.	
"	XV	A Regulation for referring certain cases to the decision of the Raja of Benares.	The Benares Family Domains Regulation, 1795.	*Cf.* the title of Act XIV of 1881.

THE FIRST SCHEDULE—*contd.*

Part I.—Regulations of the Bengal Code—contd.

1 Year.	2 No.	3 Title or subject.	4 Short title.	5 REMARKS.
1795	XXVII	A Regulation declaratory of certain reservations made by Government, and of rights preserved to the proprietors of landed estates, under the Permanent Settlement of the land-revenue made in the Province of Benares; for allowing of the transfer or division of entire estates or portions of estates; and prescribing rules for apportioning the fixed jama on the several shares of estates which may be divided, or portions of estates which may be transferred.	The Benares Permanent Settlement (Supplemental) Regulation, 1795.	
"	XLIV	A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan Laws with regard to the inheritance of landed property subject to the payment of revenue to Government in the Province of Benares.	The Benares Inheritance Regulation, 1795.	*Cf.* the title given by the Repealing and Amending Act, 1897 (V of 1897), to the similar Ben. Reg. No. XI of 1793.
1798	I	A Regulation to prevent fraud and injustice in conditional sales of land under deeds of bai-bil-wafa or other deeds of the same nature.	The Bengal Land (Conditional Sales) Regulation, 1798.	This Regulation is in force only in the Punjab, the N.-W. Frontier Province and the Sonthal Parganas.
1800	VIII	A Regulation for registers of estates paying revenue, and lands held exempt from the payment of revenue.	The Bengal Revenue-free Lands Regulation, 1800.	Only section 19 of this Regulation remains unrepealed.
1801	I	A Regulation to explain and amend the rules for the division of joint estates and allotment of the fixed assessment thereupon.	The Bengal Land-revenue Assessment Regulation, 1801.	
1803	XXXIII	A Regulation for preventing the embezzlement of public money and the withholding of public papers by the Native officers of Government in the Provinces ceded by the Nawab Wazir to the Hon'ble the English East India Company.	The United Provinces Native Revenue-officers Regulation, 1803.	*Cf.* the title proposed for Ben. Reg. III of 1794.
1805	XII	A Regulation for the settlement and collection of the public revenue in the Zila of Cuttack, including the Parganas of Pataspur, Kamardáchor and Bográí, at present included in the Zila of Midnapore.	The Cuttack Land-revenue Regulation, 1805.	
"	XIII	A Regulation for the maintenance of the peace and for the support and administration of the Police in the Zila of Cuttack, and for amending certain provisions contained in Regulation IV, 1804.	The Cuttack Police Regulation, 1805.	

THE FIRST SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Title or subject.	Short title.	REMARKS.
		Part I.—Regulations of the Bengal Code—contd.		
1806	XVII	A Regulation for extending to the Province of Benares the rates of interest on future loans, and provisions relative thereto, contained in Regulation XV, 1793; also for a general extension of the period fixed by Regulations I, 1798, and XXXIV, 1803, for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafa, kat-kábala or other similar designation.	The Bengal Land (Redemption and Foreclosure) Regulation, 1806.	Only sections 7 and 8 of this Regulation are now in force, and they apply only in the Punjab, the N.-W. Frontier Province and the Sonthal Parganas.
1810	XIX	A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges and other purposes; for the maintenance and repair of bridges, saráis, kattras and other public buildings; and for the custody and disposal of nazúl property or escheats.	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.	This Regulation has been repealed in so far as it relates to endowments for the support of mosques, Hindu temples and other religious purposes, by the Religious Endowments Act, 1863 (XX of 1863), and relates now only to endowments for charitable purposes and to public buildings and escheats.
1812	V	A Regulation for amending some of the rules at present in force for the collection of the land-revenue.	The Bengal Land-revenue Sales Regulation, 1812.	Sections 24 and 25 relate to sales for realization of land-revenue. They are the only sections of the Regulation which are in force in Bengal generally. Sections 2 to 4 relate to leases by landlords to tenants, and sections 26 and 27 to the appointment and removal of managers of joint undivided estates. All these sections have been repealed throughout almost the whole of Bengal, by the Bengal Tenancy Act, 1885 (VIII of 1885), and it does not seem necessary to take them into account in devising a short title for the Regulation. The other sections of the Regulation have all been repealed (*see* notes on pages 111 to 113 of the Bengal Code, Vol. I, Ed. 1889).
"	XVIII	A Regulation for explaining section 2, Regulation V, 1812, and rescinding sections 3 and 4, Regulation XLIV, 1793, and sections 3 and 4, Regulation L, 1795, and enacting other rules in lieu thereof.	The Bengal Leases and Land-revenue Regulation, 1812.	
1814	XXIX	A Regulation for the settlement of certain mahál s in the district of Birbhum, usually denominated the Ghatwáli mahál s.	The Bengal Ghatwáli Lands Regulation, 1814.	
1816	V	A Regulation for establishing the office of Kánúngo in the district of Cuttack, the pargana of Patáspur, and the several parganas dependent on it.	The Bengal Kánúngos Regulation, 1816.	This Regulation has been extended to Bengal generally by Ben. Reg. I of 1819, section 4.

THE FIRST SCHEDULE—*contd.*

1 Year.	2 No.	3 Title or subject.	4 Short title.	5 REMARKS.
		***Part I.—Regulations of the Bengal Code*—contd.**		
1816	IX	A Regulation for the appointment of a Commissioner of Revenue within that portion of the districts of the 24-Parganas, Nadia, Jessore and Backergunge commonly denominated the Sundarbans.	The Sundarbans Regulation, 1816.	
1817	XII	A Regulation for securing the better administration of the office of Patwári in the Ceded and Conquered Provinces, the Provinces of Behar and Benares, the district of Cuttack, the pargana of Patáspur and its dependencies.	The Bengal Patwáris Regulation, 1817.	This Regulation has been extended to Bengal generally by Ben. Reg. I of 1819, section 4.
"	XX	A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of dároghas and other subordinate officers of police.	The Bengal Police Regulation, 1817.	
1819	I	A Regulation for re-establishing Kánúngos and reforming the office of Patwári throughout the Province of Bengal; and for explaining and modifying certain parts of Regulation XII, 1817.	The Bengal Kánúngos and Patwáris Regulation, 1819.	
"	II	A Regulation for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made.	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819.	
1821	IV	A Regulation for explaining the duties of an Assistant Collector of Revenue, and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of parganas or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land-revenue.	The Bengal Land-revenue (Assistant Collectors) Regulation, 1821.	
1822	III	A Regulation for modifying the constitution and altering the jurisdiction of the several Boards vested with the superintendence of the land-revenue in the territories belonging to the Presidency of Fort William.	The Bengal Board of Revenue Regulation, 1822.	

THE FIRST SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Title or subject.	Short title.	REMARKS.
		***Part I.—Regulations of the Bengal Code—*contd.**		
1822	VII	A Regulation for declaring the principles according to which the settlement of the land-revenue in the Ceded and Conquered Provinces, including Cuttack, Patáspur and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending settlements; for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue-authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.	The Bengal Land-revenue Settlement Regulation, 1822.	Though this Regulation was enacted for particular territory only, most of its provisions have been extended to other territory in Bengal by Ben. Reg. IX of 1825, section 2. The Regulation has been repealed in the United Provinces (except certain scheduled areas) by Act XIX of 1873.
"	XI	A Regulation for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice; and for making further provision for the conduct of the Revenue-officers in certain cases.	The Bengal Government Indemnity Regulation, 1822.	Only sections 36 and 38 of this Regulation are now in force.
1823	VI	A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo-plant, and for declaring certain principles in regard to the same.	The Bengal Indigo Contracts Regulation, 1823.	
1825	IX	A Regulation for extending the operation of Regulation VII, 1822; for authorizing the Revenue-authorities to let in farm estates under temporary leases, on the default of the málguzárs, or to hold the same khás for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations.	The Bengal Land-revenue Settlement Regulation, 1825.	
"	XIII	A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by Kánúngos in the Province of Behar; and to provide for the future settlement of such lands, as well as of the lands composing other resumed lákhiráj tenures, with the present occupants, when so directed by Government.	The Bengal Land-revenue Settlement (Resumed Kanungos' and Revenue-free Lands) Regulation, 1825.	

THE FIRST SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Title or subject.	Short title.	REMARKS.
		Part I.—Regulations of the Bengal Code—contd.		
1825	XIV	A Regulation to declare the extent of the authority possessed by the Revenue-authorities, subordinate to the Governor General in Council, in the confirmation of lákhiráj tenures; to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government; and to provide for the due application of the general laws and regulations respecting lands held free of assessment to the territory ceded by Govind Ráo to the British Government, and annexed to the zila of Bundelkhand, under the provisions of Regulation II, 1818.	The Bengal Revenue-free Lands Regulation, 1825.	
1828	III	A Regulation for the appointment of Special Commissioners for the more speedy hearing and determination of appeals from the decisions of the Revenue-authorities in regard to lands or rents occupied or collected by individuals, without payment of the revenue demandable by Government, under the general law of the country; and for otherwise more effectually securing the realisation of the public dues.	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828.	
"	IV	A Regulation to declare and extend the powers to be exercised by Collectors when making or revising settlements under the provisions of Regulation VII, 1822.	The Bengal Land-revenue Settlement Regulation, 1828.	
"	VII	A Regulation for amending the provisions of Regulation XV, 1795, and for defining the authority of the Raja of Benares in the Mahals therein referred to.	The Benares Family Domains Regulation, 1828.	*Cf.* the title to Act XIV of 1881 and the title proposed *ante* for Ben. Reg. XV of 1795.
1829	I	A Regulation for constituting Commissioners of Revenue and Circuit; for establishing a Sadr Board of Revenue; for modifying the constitution of the Provincial Courts; for transferring to the said Commissioners the functions now exercised by the Superintendents of Police and those of the mufassal special Commissioners acting under the provisions of Regulation I, 1821; and otherwise for providing for the better administration of Civil and Criminal Justice.	The Bengal Reveune Commissioners Regulation, 1829.	

THE FIRST SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Title or subject.	Short title.	REMARKS.
		***Part I.—Regulations of the Bengal Code*—concld.**		
1830	V	A Regulation relating to the cultivation and delivery of Indigo-plant.	The Bengal Indigo Contracts Regulation, 1830.	
1833	IX	A Regu'ation to modify certain portions of Regulation VII of 1822 and Regulation IV of 1828; to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in making settlements under the above Regulations; for enforcing the production of the village-accounts; for the more extensive employment of Native agency in the Revenue Department; and to declare the intent of section 5, Regulation VII of 1822, touching claims to málikána.	The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.	
		Part II.—Acts of the Governor General in Council.		
1836	X	Indigo Contracts . .	The Bengal Indigo Contracts Act, 1836.	*Cf.* the title proposed for Ben. Reg. VI of 1823.
,,	XXI	Districts	The Bengal Districts Act, 1836.	
1841	XII	An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.	The Bengal Land-revenue Sales Act, 1841.	
1847	IX	An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Behar and Orissa.	The Bengal Alluvion and Diluvion Act, 1847.	*Cf.* the title given to Ben. Reg. IX of 1825 by the Repealing and Amending Act, 1897 (V of 1897), section 4.
1848	XX	An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency.	The Bengal Landholders' Attendance Act, 1848.	
1850	XXIII	An Act for securing the Land-revenue of Calcutta.	The Calcutta Land-revenue Act, 1850.	
,,	XLIV	An Act for consolidating the Board of Customs, Salt and Opium and the Sadr Board of Revenue in the Lower Provinces of Bengal.	The Bengal Board of Revenue Act, 1850.	
1855	XXXII	An Act relating to Embankments.	The Bengal Embankment Act, 1855.	

THE FIRST SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Title or subject.	Short title.	REMARKS.
		Part II.—Acts of the Governor General in Council—contd.		
1855	XXXVII	An Act to remove from the operation of the General Laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.	The Sonthal Parganas Act, 1855.	
1856	XVIII	An Act relating to the administration of the public-revenues in the Town of Calcutta.	The Calcutta Land-revenue Act, 1856.	Only section 3 of this Act is now in force.
"	XX	An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal.	The Bengal Chaukidari Act, 1856.	
"	XXII	An Act for establishing a toll on boats and timber passing through the Karatoyá river in the district of Bogra.	The Karatoyá Tolls Act, 1856.	
1857	X	An Act to amend Act XXXVII of 1855.	The Sonthal Parganas Act, 1857.	
"	XIII	An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.	The Opium Act, 1857.	
"	XXI	An Act to make better provision for the order and good government of the station of Howrah.	The Howrah Offences Act, 1857.	
1858	XXXI	An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.	The Bengal Alluvial Land Settlement Act, 1858.	
1859	V	An Act to empower the holders of ghátwáli lands in the district of Birbhum to grant leases extending beyond the period of their own possession.	The Bengal Ghátwáli Lands Act, 1859.	
"	X	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The Bengal Rent Act, 1859.	
"	XI	An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.	The Bengal Land-revenue Sales Act, 1859.	
"	XII	An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.	The Calcutta Pilots Act, 1859.	
1867	XIX	An Act to make further provision for the administration of Justice in the district of Darjeeling.	The Darjeeling (High Court's Jurisdiction) Act, 1867.	

THE FIRST SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Title or subject.	Short title.	REMARKS.
		Part II.—Acts of the Governor General in Council—concld.		
1867	XXIII	An Act for the suppression of murderous outrages in certain districts of the Punjab.	The Punjab Murderous Outrages Act, 1867.	
1871	XXII	An Act to authorise the extension of the Chaukidari Act to places where there is no Jamadar of Police.	The Bengal Chaukidari (Amendment) Act, 1871.	
1876	VII	An Act to extend the Criminal Tribes Act, 1871, to the Lower Provinces of Bengal, and to amend the same Act.	The Criminal Tribes (Amendment) Act, 1876.	
1877	IX	An Act to revive and amend Act No. XXIII of 1867.	The Punjab Murderous Outrages (Amendment) Act, 1877.	
1878	XII	An Act for the further amendment of the Punjab Laws Act, 1872.	The Punjab Laws (Amendment) Act, 1878.	
1881	VII	An Act to amend Bengal Act No. IX of 1880 (the Cess Act, 1880).	The Bengal Cess (Amendment No. 1) Act, 1881.	
1883	VI	An Act to give power to arrest persons whose evidence is needed under Act XII of 1859.	The Calcutta Pilots (Amendment) Act, 1883.	
1884	V	An Act to amend the Chota Nagpur Encumbered Estates Act, 1876.	The Chota Nagpur Encumbered Estates (Amendment) Act, 1884.	
1886	VIII	An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.	The Bengal Tenancy (Amendment) Act, 1886.	
1895	XIX	An Act to amend the Punjab Courts Act, 1884.	The Punjab Courts (Amendment) Act, 1895.	
1896	XVII	An Act to amend the Punjab Land-revenue Act, 1887.	The Punjab Land-revenue (Amendment) Act, 1896.	
,,	XVIII	An Act to amend the Punjab Municipal Act, 1891.	The Punjab Municipal (Amendment) Act, 1896.	
		Part III.—Bengal Acts.		
1862	III	An Act to amend Act XI of 1859 (to improve the law relating to sales of land for Arrears of Revenue in the Lower Provinces under the Bengal Presidency).	The Bengal Land-revenue Sales (Amendment) Act, 1862.	
,,	VI	An Act to amend Act X of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal).	The Bengal Rent Act, 1862.	
,,	VII	An Act to repeal section 30 of Regulation II, 1819 (for modifying the provisions contained in the existing Regulations regarding the Resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made).	The Bengal Land-revenue Resumption Act, 1862.	Only section 2 of this Act is now in force.

THE FIRST SCHEDULE—*contd.*

1 Year.	2 No.	3 Title or subject.	4 Short title.	5 REMARKS.
		Part III.—Bengal Acts—contd.		
1862	VIII	An Act to improve the system of Zamindári Dâks in the Provinces subject to the Government of Bengal.	The Bengal Zamindári Dâk Act, 1862.	
1863	II	An Act to abate and prevent nuisances arising from the smoke of furnaces in the Town and Suburbs of Calcutta.	The Calcutta and Howrah Smoke Nuisances Act, 1863.	
1864	IV	An Act to amend Act XXI of 1836.	The Bengal Districts Act, 1864.	
1865	IV	An Act for the prohibition of the practice of inoculation in the Town and Suburbs of Calcutta and in towns to which Act III of 1864, passed by the Lieutenant-Governor of Bengal in Council, has been or shall hereafter be extended.	The Bengal Prevention of Inoculation Act, 1865.	
"	VII	An Act to make provision for the better regulation and supervision of Public Slaughter-houses in the Suburbs of Calcutta, and for the adoption of proper conservancy arrangements connected therewith.	The Bengal Municipal (Slaughter-houses and Meat-markets) Act, 1865.	
"	VIII	An Act to amend the law for the sale of such under-tenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.	The Bengal Rent Recovery (Under-tenures) Act, 1865.	
1866	II	An Act to provide for the better regulation of the Police within the suburbs of the town of Calcutta.	The Calcutta Suburban Police Act, 1866.	
"	III	An Act to provide for the attendance and examination of witnesses before the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations.	The Bengal Legislative Council (Witnesses) Act, 1866.	
"	VII	An Act to make better provision for the acquisition of land for embankments, and other matters relating thereto.	The Bengal Embankment Act, 1866.	
1867	II	An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal.	The Bengal Public Gambling Act, 1867.	

THE FIRST SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Title or subject.	Short title.	REMARKS.
		***Part III.—Bengal Acts*—contd.**		
1867	III	An Act to amend the law relating to ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal.	The Bengal Ports Act, 1867.	
"	IV	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The Bengal Rent (Appeals) Act, 1867.	
1868	III	An Act to amend the law respecting appeals in cases under Regulation VII of 1822.	The Bengal Land-revenue Settlement Act, 1868.	
"	IV	An Act to amend the provisions of Act IX of 1847 (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Behar and Orissa).	The Bengal Alluvion (Amendment) Act, 1868.	
"	VII	An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue.	The Bengal Land-revenue Sales Act, 1868.	
1869	I	An Act for the Prevention of Cruelty to Animals.	The Bengal Cruelty to Animals Act, 1869.	
"	III	An Act to enable Police-officers to arrest without warrant persons guilty of Cruelty to Animals.	The Bengal Cruelty to Animals (Arrest) Act, 1869.	
"	VII	An Act to amend the constitution of the Police-force in Bengal.	The Bengal Police Act, 1869.	
1871	I	An Act to amend the Village Chaukidári Act, 1870.	The Bengal Village Chaukidári Act, 1871.	
"	II	An Act to amend the procedure for the recovery of arrears of land-revenue in respect of tenures not being estates.	The Bengal Land-revenue Sales (Amendment) Act, 1871.	
1873	I	An Act to amend the Salt Act, 1864.	The Bengal Salt Act, 1873.	
"	IV	An Act for registering Births and Deaths.	The Bengal Births and Deaths Registration Act, 1873.	
1876	I	An Act to provide for the voluntary Registration of Muhammadan Marriages and Divorces.	The Bengal Muhammadan Marriages and Divorces Registration Act, 1876.	
"	II	An Act to amend Act XI of 1849, Act XXI of 1856 and Act IV (B.C.) of 1866.	The Calcutta Police (Amendment) Act, 1876.	Only section 12 of this Act is now in force.
1878	V	An Act to amend Bengal Act VII of 1876.	The Bengal Land Registration (Amendment) Act, 1878.	

THE FIRST SCHEDULE—*contd.*

1 Year.	2 No.	3 Title or subject.	4 Short title.	5 REMARKS.
		Part III.- Bengal Acts—contd.		
1879	I	An Act to amend and extend the Puri Lodging-house Act, 1871.	The Puri Lodging-house (Extension) Act, 1879.	
"	III	An Act to provide for the periodical inspection of Steam-boilers and Prime-movers attached thereto in the Town and Suburbs of Calcutta and in Howrah.	The Bengal Steam-boilers and Prime-movers Act, 1879.	
"	VIII	An Act to define and limit the powers of Settlement-officers.	The Bengal Rent Settlement Act, 1879.	
1880	III	An Act to amend the Howrah Bridge Act, 1871.	The Howrah Bridge Act, 1880.	
1881	II	An Act to amend the Cess Act, 1880.	The Bengal Cess (Amendment No. 2) Act, 1881.	
"	III	An Act to amend the Court of Wards Act, 1879.	The Bengal Court of Wards (Amendment) Act, 1881.	
1883	I	An Act to amend the Bengal Excise Act, 1878.	The Bengal Excise (Amendment) Act, 1883.	
"	V	An Act for the Registration and Control of Porters and Dandeewallas in the Darjeeling and Kurseong Municipalities.	The Darjeeling and Kurseong Municipal (Porters) Act, 1883.	
1884	I	An Act further to amend Bengal Act IV of 1871.	The Puri Lodging-house (Extension) Act, 1884.	
"	II	An Act to amend the Calcutta Tramways Act, 1880.	The Calcutta Tramways (Amendment) Act, 1884.	
1886	I	An Act to further amend the Village Chaukidári Act, 1870.	The Bengal Village Chaukidári (Amendment) Act, 1886.	
"	II	An Act to amend Act II (B.C.) of 1866, and the Calcutta Police Act, 1866.	The Calcutta and Suburban Police (Amendment) Act, 1886.	
"	III	An Act to amend Act III (B.C.) of 1884.	The Bengal Municipal (Amendment) Act, 1886.	
1887	II	An Act to amend Bengal Act V of 1880.	The Bengal Vaccination (Amendment) Act, 1887.	
1889	IV	An Act to provide for the appointment of a Muhammadan Burial Board in Calcutta, and to make better provision for the interment of persons other than Christians or Muhammadans.	The Calcutta Burial Boards Act, 1889.	
1890	I	An Act to consolidate the Calcutta and the Suburban Police Superannuation Funds.	The Calcutta and Suburban Police (Superannuation Fund) Act, 1890.	
"	II	An Act to amend the Bengal Vaccination Act, 1880.	The Bengal Vaccination (Amendment) Act, 1890.	
1892	I	An Act to further amend the Village Chaukidári Act, 1870.	The Bengal Village Chaukidári (Amendment) Act, 1892.	
1894	II	An Act to amend the Calcutta Port Act, 1890.	The Calcutta Port (Amendment) Act, 1894.	

THE FIRST SCHEDULE—*concld.*

Part III.—Bengal Acts—concld.

1 Year.	2 No.	3 Title or subject.	4 Short title.	5 REMARKS.
1894	IV	An Act to amend the Bengal Municipal Act, 1884.	The Bengal Municipal (Amendment) Act, 1894.	
1895	II	An Act to further amend the Suburban Police Act, 1866, and the Calcutta Police Act, 1866.	The Calcutta and Suburban Police (Amendment) Act, 1895.	
"	IV	An Act to further amend the Calcutta Port Act, 1890.	The Calcutta Port (Amendment No. 1) Act, 1895.	
"	VI	An Act to further amend the Calcutta Port Act, 1890.	The Calcutta Port (Amendment No. 2) Act, 1895.	
1896	II	An Act to further amend the Bengal Municipal Act, 1884.	The Bengal Municipal (Amendment) Act, 1896.	
1897	I	An Act to amend the Public Demands Recovery Act, 1895.	The Bengal Public Demands Recovery (Amendment) Act, 1897.	
1899	II	An Act to repeal the Civil Courts Amins Act, 1856, in Bengal.	The Bengal Civil Court Amins Act, 1899.	

THE SECOND SCHEDULE.

AMENDMENTS.

(*See section 3.*)

1	2	3	4	5
Year.	No.	Subject or short title.	Amendments.	REMARKS.
		Part I.—Regulations of the Bengal Code.		
1793	II	The Bengal Land-revenue Regulation, 1793.	In section 18, *after* Collector *insert* or.	Consequential upon the repeal of the words "or Dewan" by the Repealing Act, 1874 (XVI of 1874).
			In sections 36, 38, 39, 40, 42, 43 and 45, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.* In section 40, *the word* his *shall be read as if the word* its *were substituted therefor.* In section 45, *the word* him *shall be read as if the word* it *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
"	VIII	The Bengal Decennial Settlement Regulation, 1793.	In section 20, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.* In section 21, *the word* Government *shall be read as if the words* the Local Government *were substituted therefor.*	Ditto.
"	XIX	Revenue-free Lands (Non-Bádsháhi Grants).	In sections 2, 3, 8 and 15, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.* In section 2, clause *Fourth, the word* him *shall be read as if the word* it *were substituted therefor.* In section 10, *the words* Governor General in Council *shall be read as if the words* Governor General in Council or the Local Government *were substituted therefor.* section 15, *the word* him, *where it last occurs, shall be read as if the word* it *were substituted therefor.*	Ditto.
"	XXXVII	Revenue-free Lands (Bádsháhi Grants).	In sections, 2, 3, 5 and 10, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.* In section 10, *the word* him, *where it last occurs, shall be read as if the word* it *were substituted therefor.*	Ditto.

THE SECOND SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Amendments.	REMARKS.
		***Part I.—Regulations of the Bengal Code*—contd.**		
1799	V	The Bengal Wills and Intestacy Regulation, 1799.	In section 7, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor, and the word* his, *where it last occurs, shall be read as if the word* its *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
1805	XII	Land-revenue, Cuttack .	In sections 18 and 20, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.* In section 18, clause *Third, the word* himself *shall be read as if the word* itself *were substituted therefor.* In section 18, clause *Fifth, the word* him *shall be read as if the word* it *were substituted therefor.* In section 22, *for* through the Board of Revenue for the information of the Governor General in Council *substitute* to the Board of Revenue. In sections 26 and 28, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.* In section 30, *the words* Governor General in Council, *in both places in which they occur, shall be read as if the words* Local Government *were substituted therefor.*	Ditto.
"	XIII	Police, Cuttack . .	In section 3, *the words* the Governor General in Council, by an order in Council, *shall be read as if the words* the Local Government, by notification in the Calcutta Gazette, *were substituted therefor.* In section 4, clause *Fourth, the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*	Ditto.
1810	XIX	Charitable Endowments, Public Buildings and Escheats.	In section 3, *for* those Boards *substitute* the Board of Revenue. In section 4, *for* Boards *substitute* Board. In section 8, *for* those Boards respectively *substitute* the Board.	The Board of Commissioners is no longer in existence.

THE SECOND SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Amendments.	REMARKS.
		Part I.—Regulations of the Bengal Code—contd.		
1810	XIX	Charitable Endowments, Public Buildings and Eschats—*contd*	In section 9, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
			In section 12, *for* superior Boards *substitute* Board of Revenue *and for* Boards *substitute* Board.	The Board of Commissioners is no longer in existence.
			In section 13, *for* superior Board *substitute* Board of Revenue.	
1812	V	Land-revenue Sales .	In section 25, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
,,	XI	The Bengal Foreign Immigrants Regulation, 1812.	At the end of section 5, *for* the said Regulation *substitute* this Regulation.	The reference was evidently intended to be made to Ben. Reg. XI of 1812 itself.
1814	XXIX	Ghatwáli Lands . .	In section 5, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
1816	V	Kánúngos	In sections 5 and 11, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.*	Ditto.
,,	IX	Sundarbans	In section 2, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*	Ditto.
			In the same section, *for* Regulations *substitute* Laws.	This amendment will extend the section to Acts.
1817	XII	Patwáris . . .	In section 18, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
1819	I	Kánúngos and Patwáris	In section 4, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.*	Ditto.
			In section 4, clause *Third, the word* he *shall be read as if the word* it *were substituted therefor.*	Ditto.
,,	II	Land-revenue Assessment (Resumed Lands).	In section 13, clause *Third*, and in section 14, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*	Ditto.

THE SECOND SCHEDULE—*contd*.

1 Year.	2 No.	3 Subject or short title.	4 Amendments.	5 REMARKS.
			***Part I.—Regulations of the Bengal Code*—contd.**	
1819	II	Land-revenue Assessment (Resumed Lands)—*contd*.	In section 21, clause *Second*, *for* Boards *substitute* Board.	This reference must now be read as relating to the Board of Revenue, there being no other "Board".
"	VIII	The Bengal Patni Taluqs Regulation, 1819.	In section 9, and in section 14, clause *Second*, *for* notes of the Bank of Bengal *substitute* currency notes.	The Bank of Bengal does not now issue notes. *Cf.* the Indian Paper Currency Act, 1882 (XX of 1882), section 3 (2).
1820	I	The Bengal Patni Taluqs Regulation, 1820.	In section 2, *for* the general Regulations *substitute* Law.	This amendment will extend the section to Acts.
1821	IV	Land-revenue (Assistant Collectors).	In section 7, *for* by the Regulations *substitute* by law *and for* the Regulations already in force *substitute* the law for the time being in force.	The matters dealt with in this section are not now provided for solely by Regulations.
			In section 8, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor*.	See paragraph 3 of the Statement of Objects and Reasons.
			In section 8, clause *Fifth*, *for the words* by the Regulations *substitute* by the laws, *and for the words* to the Regulations *substitute* to law.	These amendments will extend the clause to Acts.
1822	III	Board of Revenue . .	In the title, *for the words from* and altering *to the end*, *substitute* of the Board of Revenue, and for controlling the distribution of powers between the members of the Board.	Parts of the Regulation have been repealed, and the original title does not describe what is left.
			In section 4, clause *First*, *for* The said Boards shall each of them *substitute* The Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal shall.	The Regulation was repealed in the United Provinces (except certain Scheduled areas) by Act XIX of 1873, and now relates to only one Board, namely, the Board of Revenue for Bengal, the full title of which (as entered in column 4 opposite) is given in Act XLIV of 1850, section 3.
			In section 5, clause *First*, *for* any of the said Boards *substitute* the said Board.	
			In section 5, second proviso and clause *Second*, *for* a Board *substitute* the Board.	
			In section 5, clauses *Third* and *Sixth*, *for* Boards *substitute* Board.	
"	VII	Land-revenue Settlement.	In section 2, clause *Sixth*, *for the words* as aforesaid, *where they first occur*, *substitute* acknowledged as the proprietor or possessor of a permanent interest in the mahal for which he has engaged.	The words "as aforesaid" have been rendered meaningless by the repeal of clauses *First* to *Fifth* of section 2 by the Repealing Act, 1874 (XVI of 1874). The word which it is proposed to substitute for them are taken from clause *First* of the section.

THE SECOND SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Amendments.	5 REMARKS.
		Part I.—Regulations of the Bengal Code—contd.		
1822	VII	Land revenue Settlement —*contd.*	In section 3, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor, and the words* by an Order in Council *shall be read as if the words* by notification in the local official Gazette *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
			In section 5, section 6, clause *Second*, section 7, clause *First*, section 8, section 9, clause *Third*, section 10, clauses *First* and *Third*, and sections 16, 17, and 32, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor*; and in section 35, *the words* Governor General in Council, *in the second place where they occur, shall be read as if the words* Local Government *were substituted therefor.*	Ditto.
			In section 9, clause *Third*, *for* Boards *substitute* Board, *and for* such a Board *substitute* that Board.	There is now only one Board of Revenue in Bengal.
			In section 10, clause *Ninth*, section 16, proviso, and section 32, *for the word* Boards, *wherever it occurs, substitute* Board.	There is now only one Board, namely, the Board of Revenue.
			In section 13, *for* Regulation *substitute* law.	This amendment will extend the section to Acts.
			In section 20, clause *First*, *the words* the Government by an Order in Council *shall be read as if the words* the Local Government by notification in the local official Gazette *were substituted therefor, the word* he *shall be read as if the word* it *were substituted therefor, and the word* Government *shall be read as if the words* the Local Government *were substituted therefor.* In section 20, clause *Second*, *the words* Governor General in Council *and the words* Governor General *shall be read as if the words* Local Government *were substituted therefor, and the words* by an Order in Council *shall be read as if the words* by notification in the local official Gazette *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
			In section 23, clause *First*, *for* other Regulation *substitute* other law.	This amendment will extend the clause to Acts.

THE SECOND SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Amendments.	REMARKS.
		***Part I.—Regulations of the Bengal Code*—contd.**		
1822	VII	Land-revenue Settlement —*contd.*	In section 24, clause *Second*, *for* the existing Regulations *substitute* any other law.	This amendment will extend the clause to Acts.
			In section 26, *for* such suits *substitute* suits the cognizance of which is hereby vested in Collectors.	Section 25 having been repealed by the Pleaders, Mukhtars and Revenue Agents Act, 1865 (XX of 1865), the word "such" in section 26 has become meaningless. The amendment restores some of the words used in section 25.
1825	IX	Land-revenue Settlement	In section 3, section 4, section 5, clause *Eighth*, section 6 and section 8, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
			In section 3, *after* Behar *insert* or.	Consequential upon the repeal of the words "and Benares" by the Repealing and Amending Act, 1891 (XII of 1891).
			In section 6, *the words* an Order in Council shall *be read as if the words* notification in the local official Gazette *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
			In section 8, *for the words* rules respectively *substitute* section.	Part of this section having been repealed by the Repealing and Amending Act, 1891 (XII of 1891), this reference relates now only to section 10 of Regulation XIX of 1793.
"	XIII	Land-revenue Settlement	In sections 2 and 5, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
			In the first paragraph of section 2, *the word* he *shall be read as if the word* it *were substituted therefor.*	Ditto.
			In section 3, *for* Regulations *substitute* law.	This amendment will extend the section to Acts.
"	XIV	Revenue-free Lands	In section 1 and section 3, clause *Fifth*, *for* Regulations VIII and *substitute* Regulation.	This amendment will get rid of the reference to Ben. Reg. VIII of 1805, which Regulation was repealed (except in certain Scheduled areas) by Act XIX of 1873.
			In sections 2 and 3, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.* In section 3, clause *Fifth*, *the word* his, *where it last occurs, shall be read as if the word* its *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
			In section 6, *for* Revenue Boards *substitute* Board of Revenue, *and for* these Boards *substitute* that Board.	There is now only one Board of Revenue in Bengal.

THE SECOND SCHEDULE—*contd.*

1	2	3	4	5
Year	No.	Subject or short title.	Amendments.	REMARKS.
		Part I.—Regulations of the Bengal Code —concld.		
1827	III	The Bengal Corruption and Extortion Regulation, 1827.	In section 5, *for* a Court of Circuit or the Nizamat Adalat *substitute* the Court.	There is now no "Court of Circuit" or "Nizamat Adalat."
"	V	The Bengal Attached Estates Management Regulation, 1827.	In section 3, *for* several Regulations *substitute* Regulation.	Section 2 was partially repealed by the Repealing Act, 1874 (XVI of 1874), and a further partial repeal is proposed in Schedule III to the present Bill. If the latter repeal be effected, section 2 will refer only to one Regulation, namely, Ben. Reg. V of 1799. Hence the proposed amendment in section 3.
1828	III	Land-revenue Assessment (Resumed Lands).	In section 10, clauses *Second* and *Third*, *for* Boards *substitute* the Board.	There is now only one Board of Revenue in Bengal.
			In section 13, clause *First*, *the words* Governor General in Council *and the word* he *shall be read as if the words* Local Government *and the word* it *were respectively substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
"	IV	Land-revenue Settlement.	In section 2, clause *Fourth*, *for* aforesaid *substitute* vested with the powers of a Collector.	The word "aforesaid" became meaningless on the repeal of clause *Third* of section 2 by Ben. Reg. IX of 1833, section 4. The proposed amendment reproduces the words of that clause to which the word "aforesaid" referred.
1833	IX	Land-revenue (Settlement and Deputy Collectors).	In the title, *for* Regulations *substitute* Regulation, and in section 1, *for* those Regulations *substitute* that Regulation.	These amendments follow upon the proposal to repeal part of the title and section 1 of this Regulation (see Schedule III, *post*).
			In sections 12 and 13, *for* Boards *substitute* Board.	There is now only one Board of Revenue in Bengal.
			In section 16, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons.
		Part II.—Acts of the Governor General in Council.		
1836	XXI	Districts . . .	*The words* the Governor General in Council by an Order in Council *shall be read as if the words* the Local Government, with the previous sanction of the Governor General in Council, by notification in the local official Gazette *were substituted therefor.*	See paragraph 3 of the Statement of Objects and Reasons. *Cf.* the first proposed amendment in Ben. Reg. IV of 1821, section 8, *ante.* The power to create new districts is, in the United Provinces, exercised by the Local Government with the previous sanction of the Governor General in Council—see section 11 of U. P. Act III of 1901.
1859	X	Rent	In sections 136 and 151, *for* Boards *susbtitute* Board.	There is now only one Board of Revenue in Bengal.
"	XI	Land-revenue Sales .	In section 22, *after* post-bills *insert* currency notes.	The Bank of Bengal does not now issue notes. *Cf.* the Indian Paper Currency Act, 1882 (XX of 1882), section 3 (2).

V D

THE SECOND SCHEDULE—*contd.*

1	2	3	4	5
Year	No.	Subject or short title.	Amendments.	REMARKS.
		***Part II.—Acts of the Governor General in Council*—contd.**		
1859	XI	Land-revenue Sales.—*contd*	In section 32, *for* section 25 *substitute* section 2 of the Bengal Land-revenue Sales Act, 1868.	Section 25 of Act XI of 1859 was repealed by section 29 of Ben. Act VII of 1868 and re-enacted (with amendments) in section 2 of the latter Act.
			In section 33, *for* section 25 of this Act *substitute* section 2 of the Bengal Land-revenue Sales Act, 1868.	The title mentioned in column 4 opposite, is that which it is proposed in Schedule I to give to Ben. Act VII of 1868.
"	XII	Calcutta Pilots . .	In sections 2 and 18, *for the words* Superintendent of Marine, *wherever they occur*, *substitute* Port Officer.	There is now no "Superintendent of Marine". [Rule 1 of the Rules made under section 20 of the Act ought to be similarly amended.]
1861	V	The Police Act, 1861 .	In section 34, *after* imprisonment *insert* with or without hard labour.	The "imprisonment" referred to in this section is simple imprisonment, but in most cases rigorous imprisonment would be more suitable to the offence and to the offender, and this amendment will admit of rigorous imprisonment being awarded in such cases.
1867	III	The Public Gambling Act, 1867.	In the title, *for* the Central Provinces and British Burma *substitute* and the Central Provinces. In the preamble, *for* of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma, *substitute* and of the Chief Commissioner of the Central Provinces.	Act III of 1867 has ceased to be operative in Burma—see the Burma Gambling Act, 1899 (Burma Act I of 1899), section 2.
			In section 1, *for the definition of* Lieutenant-Governor *and* Chief Commissioner *substitute the following, namely* :— "Lieutenant-Governor" means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be. "Chief Commissioner" means the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be.	This amendment is consequential upon (*1*) the repeal of Act III of 1867 in Burma, (*2*) the recent change in the designation of the Lieutenant-Governor of the United Provinces, and (*3*) the separation of the North-West Frontier Province from the Punjab.
1872	XV	The Indian Christian Marriage Act, 1872.	In section 82, *for* certificates of marriages, *and also for* marriage certificates, *substitute* certificates for marriage.	The language of the section is misleading, and the proposed amendments follow that of sections 71 and 72.
			In Schedule II, *after* declaration *insert* or oath.	This amendment will bring the Schedule into harmony with section 41.
1878	XII	Laws, Punjab (amending Act IV of 1872).	In section 2, *for* 18 *substitute* 16.	Sections 17 and 18 of the Punjab Laws Act, 1872 (IV of 1872), have been repealed by the Punjab Laws Act Amendment Act, 1895 (VII of 1895), section 3.

THE SECOND SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Amendments.	REMARKS.
		Part II.—Acts of the Governor General in Council—contd.		
1879	XIV	The Hackney Carriage Act, 1879.	In section 3, *for* The Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma, *substitute* The Lieutenant-Governors of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioner of the Central Provinces.	Consequential upon recent changes in designations in the United Provinces and Burma.
"	XVIII	The Legal Practitioners Act, 1879.	In section 42 (added by the Legal Practitioners Act, 1884, section 9), *before the words and figures* Act I of 1846 *insert* So much of Chapter VI of Bombay Regulation II of 1827 as has not been repealed.	This amendment will enable the Government of Bombay to repeal Bombay Regulation II of 1827, Chapter VI, if and when it extends the Legal Practitioners Act, 1879, or any portion thereof to the Bombay Presidency.
1881	XIII	The Fort William Act, 1881.	In section 1, *for* Army Discipline and Regulation Act, 1879, *substitute* Army Act.	The Act of 1879 has been repealed and re-enacted by the Army Act (44 & 45 Vict., c. 58).
			In section 5, *for* Presidency Magistrates Act, 1877, *substitute* Code of Criminal Procedure, 1898; *and for the* High Courts Criminal Procedure Act, 1875, section 147, *substitute* section 526 of that Code. In section 7, *for* Magistrates appointed under the Presidency Magistrates Act, 1877, *substitute* Presidency Magistrates.	The Presidency Magistrates Act, 1877 (IV of 1877), was repealed by the Code of Criminal Procedure, 1882 (Act X of 1882), and the new Code of Criminal Procedure (Act V of 1898) does not carry on these references to the Act of 1877. The High Courts Criminal Procedure Act, 1875 (X of 1875), was repealed by the Code of Criminal Procedure, 1898, and the opportunity is here taken to substitute for the reference to section 147 of the Act of 1875 a reference to the corresponding section (526) of the new Code.
1889	V	The Coroners (Madras) Act, 1889.	In the preamble, and in section 4, sub-section (2), as amended by the Repealing and Amending Act, 1891, *for* the Code of Criminal Procedure, 1882, *substitute* the Code of Criminal Procedure, 1898.	The Code of Criminal Procedure 1882 (X of 1882), has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (V of 1898).
"	XIII	The Cantonments Act, 1889.	In section 6, sub-section (*1*), *for* in the case of a cantonment for which such a committee has not been constituted, *substitute* where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened, then, subject to any rules made under section 26, clause (*5*).	This will bring section 6 (*1*) into harmony with section 26 (*5*). The difference between the language of the two has given rise to inconvenient doubts in practice.
1897	X	The General Clauses Act, 1897.	In section 3, clauses (*5*), (*6*), (*30*) and (*35*), *after* under *insert* the Indian Councils Act, 1861, or.	This is to cover Acts of local legislatures passed under the Statute of 1861 before the Statute of 1892 was enacted by Parliament.

THE SECOND SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Amendments.	REMARKS.
		Part II.—Acts of the Governor General in Council—contd.		
1897	X	The General Clauses Act, 1897—*contd.*	In section 3, *after clause* (8), *insert the following*:— (8a) "Burma Act" shall mean an Act made by the Lieutenant-Governor of Burma in Council under the Indian Councils Acts, 1861 and 1892:.	A local legislature was established in Burma in 1897, but after the passing of the General Clauses Act, 1897.
			In section 3, *after clause* (44), *insert the following*:— (44a) "Punjab Act" shall mean an Act made by the Lieutenant-Governor of the Punjab in Council under the Indian Councils Acts, 1861 and 1892:.	A local legislature was established in the Punjab in 1897, but after the passing of the General Clauses Act, 1897.
			In section 3, *after clause* (55), *insert the following*:— (55a) "United Provinces Act" shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892:.	Consequential upon the recent change in designation in the United Provinces.
			In section 20, *before the word* order, *in each of the places in which it occurs, insert* notification.	This is to make it clear that notifications are "orders" within the meaning of the section.
			In section 21, *for* make *substitute* issue notifications, *between the words* any *and* orders *insert* notifications, *and for* made *substitute* issued.	Ditto.
			In section 24, *before the word* order, *in each of the places in which it occurs, insert* appointment, notification; *and before the word* issued, *in each of the places in which it occurs, insert* made or.	This is to obviate any doubt as to whether the provision covers appointments made and notifications issued under a provision repealed and re-enacted. *Cf.* section 25 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899), and the amendments thereof proposed *post.*
1898	V	The Code of Criminal Procedure, 1898.	In section 260, sub-section (1), clause (i), *after* 451 *insert* 453, 454.	Offences punishable under sections 451, 456 and 457 of the Indian Penal Code (Act XLV of 1860), were included in the list of offences triable summarily when the Code was last revised. It is anomalous that the cognate, though less grave, offences under sections 453 and 454 should not also be so triabl[e].
			In section 555 *for* 553 *substitute* 554.	Clerical error corrected.

THE SECOND SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Amendments.	5 REMARKS.
			Part II.—Acts of the Governor General in Council—concld.	
1898	V	The Code of Criminal Procedure, 1898—*contd.*	In the second schedule, column 5, against section 195, *for* Bailable *substitute* Not bailable.	Offences punishable under section 195 of the Indian Penal Code (Act XLV of 1860) were non-bailable under the Code of Criminal Procedure, 1882 (Act X of 1882). They appear to have been inadvertently made bailable in the present Code, and it is proposed to correct the slip.
			In the second schedule, column 8, against section 506, *for* Ditto *substitute* Presidency Magistrate or Magistrate of the first or second class.	In the Code of Criminal Procedure, 1882 (Act X of 1882), offences punishable under section 505 of the Indian Penal Code (Act XLV of 1860) were triable by Magistrates of the first or second class, and the first entry in the schedule opposite section 506 followed on the same lines. The terms of the new section 505 of the Indian Penal Code substituted by Act IV of 1898, section 6, were such as to render it expedient to restrict to first class Magistrates the trial of offences thereunder. But it was never intended to extend the restriction to the less serious offences under section 506, and it is proposed to correct the slip.
			In the heading to the fifth schedule, *for* 554 *substitute* 555.	Clerical error corrected.
			In the fifth schedule, Form IV, *for* within days from this date *substitute* on the day of .	This is to rectify a discrepancy between the provisions of section 87 of the Code and the language used in the form prescribed under that section.
			In the fifth schedule, Forms XIII and XIV, *for the passage from* comply *where it occurs for the second time to* released, *substitute* be lawfully ordered to be released.	These forms were reproduced from the Code of Criminal Procedure, 1882 (Act X of 1882), but the fact that section 123, sub-section (*4*), had been amended was apparently overlooked. It is proposed to remove the discrepancy between the section and the forms.
1900	III	The Prisoners Act, 1900.	For section 29 *substitute the following* :— 29.(*1*) The Governor General in Council may, by general or special order, provide for the removal of any prisoner confined in a prison— [Removal of prisoners.] (*a*) under sentence of death, or (*b*) under, or in lieu of, a sentence of imprisonment or transportation, or (*c*) in default of payment of a fine, or (*d*) in default of giving security for keeping the peace or for maintaining good behaviour, to any other prison in British India. (*2*) The Local Government, and (subject to its orders and under its control) the Inspector-General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province.	The existing provisions of section 31 necessitate a reference to the Government of India in each case of transfer from one Province to another. This is in practice most inconvenient, nor is it necessary. It is proposed to repeal section 31—*see* Schedule III, *post*—and to substitute here a more elastic provision.

THE SECOND SCHEDULE *contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Amendments.	REMARKS.
			Part III.—Bengal Acts.	
1862	VI	Rent	In section 14, *for* the said Act *substitute* Act X of 1859,	Follows on the repeal of the first part of section 14 suggested in Schedule III, *post.*
			and for section VII of Act I of 1846 *substitute* section 27 of the Legal Practitioners' Act, 1879.	Act I of 1846 has been repealed in Bengal by the Legal Practitioners' Act, 1879 (XVIII of 1879), section 42 [added by the Legal Practitioners' Act, 1884 (IX of 1884), section 9]. It seems doubtful whether the last paragraph of section 2 of Act XVIII of 1879 governs the subsequently added section 42, and it is proposed to make this amendment in order to remove the doubt.
1865	VII	Slaughter-houses and Meat-markets.	In section I, *for* the jurisdiction of the Municipal Commissioners of the Suburbs of the Town of Calcutta appointed under the provisions of Act III of 1864 passed by the Lieutenant-Governor of Bengal in Council (*the District Municipal Improvement Act*), *substitute* any limits to which this section has heretofore been, or may hereafter be, extended by notification under section 9.	Ben. Act VII of 1865 was repealed in the Suburbs of Calcutta by the Calcutta Municipal Consolidation Act, 1876 (Ben. Act IV of 1876), and is now applicable only to "towns and places" to which it has been, or may hereafter be, extended by notification under section 9. The word "limits" is used in the proposed amendment because it is used in sections 1, 3 and 4 of the Act of 1865.
1866	IV	The Calcutta Police Act, 1866.	In section 25, *for* such officer *substitute* officer of the Police Force.	Necessitated by the repeal of section 24 of Ben. Act IV of 1866 by the Presidency Magistrates Act, 1877 (IV of 1877).
			In section 33, *for* the Articles of War for Her Majesty's Army or Her Majesty's Navy or for the native officers or soldiers in Her Majesty's Indian Army, *substitute* the Naval Discipline Act, the Army Act or the Indian Articles of War.	These several Articles of War are now contained in the Naval Discipline Act (29 & 30 Vict., c. 109), the Army Act (44 & 45 Vict. c. 58), and the Indian Articles of War (Act V of 1869), respectively.
			In section 95, *for the words* this Act, *in the second place in which they occur, substitute* sections 64 and 67 to 70 of the Indian Penal Code and sections 386, 387 and 389 of the Code of Criminal Procedure, 1898.	Necessitated by the repeal of section 93 of Ben. Act IV of 1866 by the Presidency Magistrates Act, 1877 (IV of 1877).
1867	IV	Rent (Appeals) . .	In section 5, *for* the said recited Acts *substitute* the Bengal Rent Act, 1859, or the Bengal Rent Act, 1862.	This amendment follows on the repeal proposed in Schedule III, *post*, of the earlier parts of Ben. Act IV of 1867. The titles mentioned in column 4, opposite, are those which it is proposed (in Schedule I, *ante*) to give to Act X of 1859 and Ben. Act VI of 1862, respectively.
1869	I	Cruelty to Animals .	In section 9, *for* the said Act II of 1866 *substitute* Ben. Act II of 1866.	Section 8, in which Ben. Act II of 1866 was mentioned, was repealed by the Repealing Act, 1873 (XII of 1873).

THE SECOND SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Amendments.	REMARKS.
		Part III.—Bengal Acts—contd.		
1876	III	The Bengal Irrigation Act, 1876.	In section 95, *for* as a demand under section 1 of the aforesaid Ben. Act VII of 1868 *substitute* under the procedure provided by the Public Demands Recovery Act, 1895, for the recovery of public demands.	The portion of section 1 of Ben. Act VII of 1868 to which this clause refers was repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880), and the reference is not carried on by the Public Demands Recovery Act, 1895 (Ben. Act I of 1895).
1880	IX	The Cess Act, 1880 .	In section 29, Example B, *for* rate *substitute* ratio.	Clerical error corrected.
1884	II	Amendment of the Calcutta Tramways Act, 1880.	In the preamble, *for the words and figures* situate within the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876, *substitute* subject to the authority of the Corporation of Calcutta. In section 3, *for the words and figures* in Calcutta but situate beyond the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876, *substitute* in those portions of Calcutta, as defined in the Calcutta Municipal Act, 1899, which are not subject to the authority of the Corporation of Calcutta, *and for the words and figures* within the local limits of the town as defined by the Calcutta Municipal Consolidation Act, 1876, *substitute* within the area subject to their authority. In section 4, *for the words and figures* outside the limits of the town as defined by the Calcutta Municiphl Consolidation Act, 1876, *substitute* outside the area subject to their authority.	When Ben. Act II of 1884 was passed, the Corporation of Calcutta had authority only within the town proper, and not within the suburbs of Calcutta (see Ben. Act IV of 1876). By Ben. Act II of 1888 (which repealed and re-enacted Ben. Act IV of 1876) the authority of the Corporation was extended to the suburbs. The Corporation exercise over the Tramway lines in the suburbs the jurisdiction conferred upon them by the Calcutta Tramways Act, 1880 (Ben. Act I of 1880); and they may be considered to be justified in doing so by the facts— (1) that the Act of 1888 extended the general authority of the Corporation to the suburbs, (2) that the Act of 1888 directed that references to the Act of 1876 should be deemed to be made to the later Act, and (3) that the word used in section 2 of Ben. Act II of 1884 is "includes", not "means". But it is considered desirable to make the point clear by amending the Act of 1884 in the manner indicated in column 4, and by repealing section 2 (see Schedule III. *post*). The Act of 1899, referred to in column 4, is the present Calcutta Municipal Act, which repealed and re-enacted the Act of 1888. The proposed amendments will leave to the Local Government the powers which alone it is necessary to reserve to it, namely, powers of control over such parts of the Tramway as lie on the Calcutta Maidan.
1885	III	The Bengal Local Self-Government Act of 1885.	In section 45, *for* such district *substitute* any district in which this Act is in force. In the reference to section 9 of Bengal Act IX of 1880 in the second Schedule *for* 111, *substitute* 109.	The word "such", as used in the section, is meaningless. The amendment made by Ben. Act II of 1881, section 1, seems to have been overlooked when the Schedule was drawn.

THE SECOND SCHEDULE—*concld.*

1	2	3	4	5
Year.	No.	Subject or short title.	Amendments.	REMARKS.
		***Part III.—Bengal Acts*—concld.**		
1887	IV	The Chittagong Port Commissioners Act, 1887.	In section 39, clause (*b*), *for* 32 *substitute* 34.	The reference should obviously be to section 34, not to section 32, which does not mention liens.
1890	II	Vaccination (amending Bengal Act V of 1880).	In sections 2 and 3, *after* Suburbs *insert* of Calcutta.	The omission of these words was an oversight—*cf.* the preamble and section 1 of the Bengal Vaccination Act, 1880 (Ben. Act V of 1880), as amended by sections 2 and 3 of Ben. Act II of 1890.
"	III	The Calcutta Port Act, 1890.	In section 30, *for* the three next succeeding sections, *and* in section 34 *for* any of the three last preceding sections, *substitute* section 31, section 32 or section 33.	Necessitated by the insertion, by section 3 of Ben. Act IV of 1895, of a new section (32A) after section 32.
			In section 94, *for* vessels *substitute* vessel.	Clerical error corrected.
1894	IV	Municipalities . .	In section 34, *for* Municipality *substitute* Municipalities.	Clerical error corrected.
1899	I	The Bengal General Clauses Act, 1899.	In section 3, clause (6), *after* under *insert* the Indian Councils Act, 1861, or.	This amendment will prevent doubts as to whether sections 14, 16, 17, 21, 22 and 26 of Ben. Act I of 1899 apply to Acts made before the year 1892.
			In section 25, *before the word* order, *wherever it occurs, insert the word* appointment, *and before the word* issued, *wherever it occurs, insert the words* made or.	These amendments will remove doubts which have been raised as to whether section 25 includes appointments. *Cf.* the proviso to section 5 of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901).
		Part IV.—Burma Act.		
1898	I	The Burma General Clauses Act, 1898.	In section 20, *before the word* order, *in each of the places in which it occurs, insert* notification.	These amendments follow those proposed *ante*, in sections 20, 21 and 24 of the General Clauses Act, 1897 (X of 1897).
			In section 21, *for* make *substitute* issue notifications, *between the words* any *and* orders *insert* notifications, *and for* made *substitute* issued.	
			In section 24, *before the word* order, *in each of the places in which it occurs, insert* appointment, notification; *and before the word* issued, *in each of the places in which it occurs, insert* made or.	
		Part V.—Regulation made under the Government of India Act, 1870 (33 & 34 Vict., c. 3).		
1874	IX	The Arakan Hill District Laws Regulation, 1874.	In the first column of the schedule, *for* II of 1857 *substitute* XI of 1857.	Clerical error corrected.

THE THIRD SCHEDULE.

REPEALS.

(*See section 4.*)

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part I.—Regulations of the Bengal Code.		
1793	VIII	The Bengal Decennial Settlement Regulation, 1793.	In section 19, *the words and figures* as the mukarraridars mentioned in section XVIII are supposed to have done.	Obsolete. Section XVIII was repealed by the Repealing Act, 1876 (XII of 1876).
			Section 33 . . .	Obsolete, the sections from 68 to the end of the Regulation having been repealed by the Repealing Act, 1874 (XVI of 1874).
			In section 66, *the words* or the Courts of Circuit.	Obsolete, there being now no "Courts of Circuit."
"	XIX	Revenue-free Lands (Non-Bádsháhi Grants)	Section 25 . . .	This section required Collectors to publish a notice on receipt of the Regulation. It has long since expired.
			Section 35 .	This section refers to separations mentioned in section 34 and to registers prescribed by sections 29 and 33, all of which sections were repealed by the Land Registration Act, 1876 (Ben. Act VII of 1876). It is spent.
"	XXXVII	Revenue-free Lands (Bádsháhi Grants).	In section 2, clause *Second*, *the words and figures* and proceeded in it as required by section XIV, Regulation III, 1793.	Obsolete, section 14 of Ben. Reg. III of 1793 having been repealed by the Repealing Act, 1868 (VIII of 1868). Similar words and figures in section 2 of Ben. Reg. XIX of 1793 were repealed by the Repealing Act, 1874 (XVI of 1874).
			Section 20 . . .	This section required Collectors to publish a notice on receipt of the Regulation. It has long since expired.
			Section 30 . . .	This section refers to separations mentioned in section 26 and to registers prescribed by sections 24 and 28, all of which sections were repealed by the Land Registration Act, 1876 (Ben. Act VII of 1876). It is spent.
"	XXXVIII	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.	In section 2, *the words* have been made in opposition to the repeated prohibitions of Government, or which.	Spent.
1794	III	Native Revenue-officers .	In the title, *the words* money or *and the words* embezzle or.	These words refer to sections 1 to 20. Those sections were repealed, "so far as they relate to the recovery of money belonging to Government," by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880), and the words in question are consequently obsolete.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part I.—Regulations of the Bengal Code—contd.		
1794	III	Native Revenue-officers—*contd.*	In section 16, *the words* a balance of accounts, or money or, *the words* the payment of the money or, *the words* the amount of the money or, *the words* money or, *the words* discharge the money or, *the words* the sum demanded of him shall be discharged or,	These words were repealed in effect but not specifically, by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880) [see the note immediately above]. T r express repeal is necessary in order to admit of their being left out of the section when reprinted for the new edition of the Bengal Code.
			and the words from The Collector is authorised likewise to attach *to* arrears of revenue.	These words relate to the attachment and sale of property to make good "the sum which may be due." They were in effect repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880), and might now be specifically repealed in order to admit of their being left out of the section when reprinted for the new edition of the Bengal Code.
			In section 17, *the words* money or. In section 18, *the words* money or, *the words* balance or, *and the words* that no part, or a portion only, of the sum demanded was due from him, or.	These words were repealed in effect, but not specifically, by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880) Their express repeal is necessary in order to admit of their being left out of the section when reprinted for the new edition of the Bengal Code.
			Section 19 . . .	Section 19 relates only to the recovery of public money. It was in reality repealed entirely by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880), although that Act purported to repeal only part of the section.
			In section 20, *the words and figures* and shall not obtain his release in the mode specified in section 19, *and the word* nevertheless.	It is proposed to repeal section 19—see *ante*.
1799	V	The Bengal Wills and Intestacy Regulation, 1799.	In section 2, *the words* under any Regulation relative to the jurisdiction of the Court of Wards.	Obsolete. The Bengal Regulations as to the jurisdiction of the Court of Wards have all been repealed, the Bengal law on the subject being now contained in Ben. Act IX of 1879 and amending Acts.
			In section 3, *the words* when they are to proceed thereupon according to the general Regulations.	Obsolete and unnecessary. The procedure of the Courts is now largely regulated by Acts which have superseded the earlier Regulations.
			In section 7, *the words* or, if the deceased were an European, in the Calcutta Gazette.	Obsolete. The proceedi on the death of an European are now provided for by section 64 of the Administrator Generals' Act, 1874 (II of 1874).

THE THIRD SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
		Part I.—Regulations of the Bengal Code—contd.		
1801	I	Land-revenue Assessment	In section 8, *the words and figures from* and the patwari accounts furnished in pursuance of clause fourth of section LXII, Regulation VIII, 1793, *to* procurable by the officers of Government,	This is a recital which it is unnecessary to retain. Section 62 of Ben. Reg. VIII of 1793, mentioned in it, was repealed by Ben. Reg. XII of 1817.
			the words and figures in pursuance of clause fourth of section LXII, Regulation VIII, 1793, or of any other Regulation, *the words* under the process prescribed in clause eighth of the above section and Regulation,	Section 62 of Ben. Reg. VIII of 1793 having been repealed, it is unnecessary to retain these references.
			and the words and figures from Moreover, nothing in this Regulation is meant to supersede the rules contained in section LXII, Regulation VIII, 1793, *to the end of the section.*	This portion of section 8 was repealed in vague terms by section 2 of Ben. Reg. XII of 1817, which was enacted for certain districts and was afterwards extended to the rest of Bengal by Ben. Reg. I of 1819, section 4 (2). It is accordingly printed in italics on page 559 of Volume I of Clarke's Bengal Regulations, Ed. 1854, but is printed in the Bengal Code, Volume I, 1889, pages 71-72, as if it were unrepealed. It is practically superseded by sections 27 and 30 of Ben. Reg. XII of 1817, and might now be specifically repealed. Section 62 of Ben. Reg. VIII of 1793 (referred to in the clauses which it is now proposed to repeal) was repealed by Ben. Regs. XII of 1817 and I of 1819.
			In section 10, *the words* Governor General in Council or.	See paragraph 3 of the Statement of Objects and Reasons.
1805	XII	Land-revenue, Cuttack	In section 1, *the words from* And whereas the principles *to* confirmed.	These words refer to sections 2 to 4 and 5 (first paragraph), which it is proposed *post* to repeal.
			Sections 2 to 11	Section 2 is a recital of past action, section 3 and the first paragraph of section 5 are validation clauses, and section 4 recites a proclamation previously published. They are all spent. The second and third paragraphs of section 5 relate to past settlements only, and have expired. Section 6 made a promise which was fulfilled long ago. It has expired.

THE THIRD SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
		Part I.—Regulations of the Bengal Code—contd.		
1805	XII	Land-revenue, Cuttack—*contd.*		Section 7 fixed a period, which has long since expired, for the delivery of pattas. It is spent. The section has already been repealed by the Bengal Tenancy Act, 1885 (VIII of 1885), but that rep[eal] does not run throughout Bengal. Section 8 relates to endowments for the temple of Juggannath, for Matths in the vicinity of that temple, and for other similar purposes. It is obsolete. Section 9 relates to rents appropriated for the support of police. It is obsolete. Sections 10 and 11 are superseded by the Land Registration Act, 1876 (Ben. Act VII of 1876).
			In section 31, *the words and figures from* and the rules contained in Regulation XXVII, 1793, *to the end.*	Obsolete, Ben. Reg. XXVII of 1793 having been repealed by Act XXIX of 1871.
"	XIII	Police, Cuttack	In the title, *the words and figures* and for amending certain provisions contained in Regulation IV, 1804.	Obsolete, Ben. Reg. IV of 1804 having been repealed by the Repealing Act, 1868 (VIII of 1868).
			In section 1, *the words from* And whereas it was the practice *to* general tranquillity of the country. Section 4, clause *Third.* In section 4, clause *Fourth, the words* and third. Sections 5, 6, 7, 10 and 11.	The lands of all the local police, namely, khandaits, paiks, etc., in Cuttack have been resumed and assessed to revenue in the Orissa Settlement of 1898, and the men relieved of any further services; and the Village Chaukidari Act (Ben. Act VI of 1870) has been introduced into the districts of Cuttack and Midnapore. The portions of Ben. Reg. XIII of 1805 noted opposite are therefore obsolete.
1810	XIX	Charitable Endowments, Public Buildings and Escheats.	In the title, *the words* mosques, Hindu temples* *and the words* bridges, sarais, kattras and other.† In section 1, *the words* mosques, Hindu temples,* *the words* pious and* *and the words* bridges, serais, kattras and other.† In section 2, *the words* mosques, Hindu temples,* *the words* pious and,*	*These words are obsolete, in consequence of the repeal, by the Religious Endowments Act, 1863 (XX of 1863), of "so "much of Bengal Regulation "XIX of 1810 as relates to "endowments for the support of "mosques, Hindu temples and "other religious purposes." †These words are obsolete, in consequence of the repeal, by section 16 of Ben. Reg. XVII of 1816, of "such parts of Bengal "Regulation XIX of 1810 as "require those Boards to pro-"vide, with the sanction of "Government, for the due "repair and maintenance of "public edifices of this descrip-"tion" (*i. e.*, bridges, sarais and kattras). [The words "bridges, sarais and kattras" in section 2 of Ben. Reg. XIX of 1810, should be retained in the Statute-book, as that section refers to "general superintendence" and not to "main[ten]ance and repairs," and section 16 of Ben. Reg. XVII of 1816 stated expressly that the "general superintendence" of the Boards was to continue].

THE THIRD SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
			Part I.—Regulations of the Bengal Code—contd.	
1810	XIX	Charitable Endowments, Public Buildings and Escheats—*contd.*	*and the words* and Board of Commissioners in the several districts subject to the control of those Boards respectively.	Obsolete, the Board of Commissioners being no longer in existence.
			In sections 3, 5, 6 and 8, *the words* and Board of Commissioners.	
			In section 7, *the words* and Board of Commissioners, respectively.	
			In section 10, *the words* to whose authority those agents are respectively subject.	
			In section 14, *the words* or Board of Commissioners.	
			In section 15, *the words* in the mode and form prescribed by the Regulations, where Government or public officers are parties, or under the general provisions of the Regulations, if the suit be brought against a competitor or other private person.	These words are obsolete, since the procedure in suits is not now regulated by Regulations.
1812	V	Land-revenue Sales . .	In section 26, *the words* and City.	Obsolete, there being now no "City Judges."
			In section 27, *the words* or City.	
"	XVIII	Leases and Land-revenue .	In section 1, *the words* and Benares.	Obsolete, the Regulation having been repealed in Benares (except the Family Domains of the Maharaja) by Act XIX of 1873.
"	XXII	Territories bordering on Bundlekhand.	So much as is unrepealed	Unnecessary.
1814	XXIX	Ghatwáli Lands . . .	In section 3, *the words* with the sanction of the Governor General in Council.	See paragraph 3 of the Statement of Objects and Reasons.
1816	V	Kánúngos	In section 10, *the words* by the Regulations.	Obsolete.
1817	XII	Patwáris	In the title, *the words* in the Ceded and Conquered Provinces, the Provinces of Behar and Benares, the district of Cuttack, the pargana of Patáspur and its dependencies.	These words are obsolete, Ben. Reg. XII of 1817 having been— (*1*) repealed in the United Provinces (except certain scheduled areas) by Act XIX of 1873, and (2) extended to the whole of Bengal by Ben. Reg. I of 1819, section 4, clause *Second*.
			In section 1, *the words from* but, as for the full attainment *to* organization of that office, *and the words from* to be in force *to* dependent on it.	

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part I.—Regulations of the Bengal Code—contd.		
1817	XII	Patwaris - *contd.*	In section 23, *the words* City or.	Obsolete, there being now no "City Courts".
			In sections 27 and 29, *the words* in like manner.	These words referred to sections 26 and 28, respectively, of the Regulation, which were repealed by the Repealing Act, 1875 (XII of 1876). They are superfluous
			In section 30, *the words* Provided further that.	Surplusage.
1818	III	The Bengal State Prisoners Regulation, 1818.	In section 4, *the words* or City, *wherever they occur.*	Obsolete, there being now no "City Magistrates".
1819	I	Kánúngos and Patwáris	In section 4, clause *Sixth*, *the words* and Sylhet.	Obsolete, Ben. Reg. I of 1819 having been repealed in Assam by the Repealing and Amending Act, 1891 (XII of 1891).
"	II	Land-revenue Assessment (Resumed Lands,)	In section 3, clause *First*, *the words* and fifty bighas if within the Province of Benares.	Obsolete, Ben. Reg. II of 1819 having been repealed in Benares (except the Family Domains of the Maharaja), by Act XIX of 1873.
"	VIII	The Bengal Patni Taluqs Regulation, 1819.	In section 17, clause *Eighth*, *the words* as shown by the Government Gazette last received.	Obsolete. The market value of Government securities is not now advertised in the Government Gazette.
1820	I	The Bengal Patni Taluqs Regulation, 1820.	In section 2, *the words* or City.	Obsolete, there being now no "City Courts".
1822	VII	Land-revenue Settlement	In the title, *the words* the Ceded and Conquered Provinces, including.	These words relate to the United Provinces only, and are obsolete in consequence of the repeal of the whole Regulation (except in certain scheduled areas) by Act XIX of 1873.
			In section 1, *the words* the district of Gorakhpur, the chaklá of Azamgarh, *the words* and whereas it is also advisable to provide for the revision of the settlement of the Conquered Provinces and of the Province of Bundelkhand, pending the continuance of the existing leases, *and the words* from the date of their promulgation throughout the Ceded and Conquered Provinces.	(as above)
			Section 5, clause *First*	Repealing clause. Spent.

THE THIRD SCHEDULE *contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part I.—Regulations of the Bengal Code—contd.		
1822	VII	Land-revenue Settlement—*contd.*	Section 6, clause *Fourth*.	The matter proposed for repeal is obsolete in consequence of the repeal of the Regulation (except in certain scheduled areas) by Act XIX of 1873.
			In section 7, clause *First, the words* in the Ceded Provinces or,	
			Section 7, clause *Fourth*.	
			In section 7, clause *Sixth, the words* the district of Gorakhpur, the chaklá Azamgarh.	
			In section 29, clause *First, the words* but no petition of appeal shall be received after the expiration of three months from the date of the decision unless sufficient cause shall be shown for the delay to the satisfaction of the Board,	Superseded by Ben. Act III of 1868, which enacts a new rule of limitation.
			and the words Provided also that, *in both places in which they occur.*	Surplusage.
			In section 31, clause *Second, the words* Provided also that.	Surplusage.
			In section 33, clause *First, the word* City.	Obsolete, there being now no "City Courts."
			In section 35, *the words* or Board of Commissioners.	The Board of Commissioners has ceased to exist, and all references to it in the Regulations have been repealed, except a few which it is proposed to repeal or remove by the present Bill.
"	XI	Government Indemnity.	Section 2 . . .	Repealing clause. Spent.
1823	VI	Indigo Contracts . .	In section 4, clause *Second, the words* by the existing Regulations.	Distraint is not now governed by Regulations alone.
"	VII	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.	In section 6 *the words* In like manner.	These words became meaningless on the repeal of section 5 by the Repealing Act, 1874 (XVI of 1874).
			Section 7 . . .	This section provides a penalty for breach of Ben. Reg. XXI of 1814, which Regulation was repealed by Act XXIX of 1871.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part I.—Regulations of the Bengal Code—contd.		
1825	VI	The Bengal Troops Transport Regulation, 1825.	In section 2, *the word* Sicca.	Obsolete.
			In section 4, *the words* in whose jurisdiction the district may be situate. In section 5, *the word* proper *and the words* by whom the case may be cognizable.	Obsolete, there being now only one Board of Revenue in Bengal.
"	IX	Land-revenue Settlement	In section 5, clause *Tenth, the words* under the provisions of the existing Regulations.	Superfluous.
"	XI	The Bengal Alluvion and Diluvion Regulation, 1825.	In section 5, *the words* and City.	Obsolete, there being now no "City Magistrates".
"	XIV	Revenue-free Lands	In the title, *the words and figures* and to provide for the due application of the general laws and regulations respecting lands held free of assessment to the territory ceded by Govind Ráo to the British Government and annexed to the zila of Bundelkhand under the provisions of Regulation II, 1818. In section 1, *the words and figures* and it is necessary to make provision for the due application of the general rules in force relative to lákhíraj tenures to the territory ceded by Govind Ráo to the British Government and annexed to the zila of Bundelkhand under the provisions of Regulation II, 1818,	Obsolete, Ben. Reg. XIV of 1825 having been repealed in the United Provinces (except certain scheduled areas) by Act XIX of 1873. Ben. Reg. II of 1818 was repealed by the Laws Local Extent Act, 1874 (XV of 1874).
			the words a special appeal only shall lie in the Provincial Courts, and that in like manner in cases decided in the first instance by a Provincial Court, excepting cases ultimately appealable to the King in Council, *the words* on special grounds only, *the words* the above restriction should not apply to, *the words* but that such cases,	The words proposed for repeal have become meaningless since the repeal of the greater part of section 26 (*1*) of Ben. Reg. II of 1819 by the Repealing Act, 1874 (XVI of 1874).
			and the words and figures Regulations XLI and XLII, 1795, Regulations XXXI and XXXVI, 1803.	The four Regulations mentioned were repealed (except in certain scheduled areas) by Act XIX of 1873.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		***Part I.—Regulations of the Bengal Code*—contd.**		
1825	XIV	Revenue-free Lands—*contd.*	In section 2, *the words* the Lieutenant-Governor and the Board of Commissioners in the Ceded and Conquered Provinces. In section 3, clause *Second, the words and figures from* the 1st July, 1775, *to* 1st November, 1817.	Obsolete, Ben. Reg. XIV of 1825 having been repealed in the United Provinces (except certain scheduled areas) by Act XIX of 1873.
			In section 3, clause *Fifth, the words and figures* Regulation XLII, 1795, Regulation XXXVI, 1803, and,	The two Regulations mentioned were repealed (except in certain scheduled areas) by Act XIX of 1873.
			and the words and figures from and with respect to the territory *to* territory referred to. In section 3, clause *Seventh, the words and figures from* for Benares *to* 1st January, 1803, *and the words and figures from* for the pargana *to* 1st November, 1817.	Obsolete, Ben. Reg. XIV of 1825 having been repealed in the United Provinces (except certain scheduled areas) by Act XIX of 1873.
			In section 4, *the words and figures* Regulation XLI, 1795, Regulation XXXI, 1803.	The two Regulations mentioned were repealed (except in certain scheduled areas) by Act XIX of 1873.
1827	V	The Bengal Attached Estates Management Regulation, 1827.	In section 2, *the words and figures* and clauses five and six, section XVI, Regulation III, 1803.	Ben. Reg. III of 1803 has been repealed (except in certain scheduled areas) by Act XIX of 1873.
1828	III	Land-revenue Assessment (Resumed Lands).	In the title, *the words from* the appointment *to* for otherwise. In section 1, *the words and figures from* By the provisions of Regulation II, 1819, *to* To remedy the aforesaid evils, *and the words from* to appoint special Commissioners *to* relative to such cases; and. Sections 2 to 8. In section 10, clause *Second, the words* whether the same be situated in districts to which the jurisdiction of a special Commissioner has been extended or in any other district, *and the words* or to the Commissioner appointed under this Regulation.	The matter proposed for repeal relates to the appointment and functions of special Commissioners for the final determination of cases investigated under Ben. Reg. II of 1819, sections 5 to 20, or Ben. Reg. IX of 1825, and for the determination of suits brought to contest the demand of Revenue Officers. It is obsolete and unlikely to be required in the future.
			In section 12, *the words and figures* Regulations XLI and XLII, 1795, Regulations XXXI and XXXVI, 1803, Regulations VIII.	The Regulations mentioned were repealed (except in certain scheduled areas) by Act XIX of 1873.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		***Part I.—Regulations of the Bengal Code*—contd.**		
1828	III	Land-revenue Assessment (Resumed Lands)—*contd.*	In section 13, clause *First, the words* or before a special Commissioner under this Regulation.	See the first note against this Regulation *supra.*
			In section 13, clause *Second, the words* to a special Commissioner under this Regulation having local jurisdiction for the time being (or, if no such jurisdiction exist).	See the first note against this Regulation *supra.*
"	IV	Land-revenue Settlement	Section 1 . . .	This section referred only to clauses *First* and *Second* of section 2, which were repealed by Ben. Reg. IX of 1833, section 4.
			In section 2, clause *Fourth, the words* by this Regulation and.	These words referred only to clause *First* of section 2, which was repealed by Ben. Reg. IX of 1833, section 4.
1829	I	Revenue Commissioners	In the title, *the words and figures from* for establishing *to the end.*	The matter proposed for repeal relates partly to clauses (noted on pages 265 and 266 of the Bengal Code, Vol. I, Ed. 1889) which have already been repealed, and partly to clauses which it is proposed, *post*, to repeal.
			In section 1, *the words* now vested in the Courts of Circuit, together with those; *the words* the former under the authority of the Nizamat Adalat, and the latter; *the words* and altogether to disjoin the functions of the Courts of Circuit from those of the Judges of Appeal; *and the words and figures from* It has, at the same time, appeared to be necessary *to* superseded by the appointment of Commissioners.	The matter proposed for repeal relates partly to clauses (noted on pages 265 and 266 of the Bengal Code, Vol. I, Ed. 1889) which have already been repealed, and partly to clauses which it is proposed, *post*, to repeal.
			In section 2, *the figures and words from* 1st Division *to* Ghazipur,	The matter proposed for repeal is a list of Divisions and Districts in part of the United Provinces. The whole Regulation was repealed in those Provinces (except certain scheduled areas) by Act XIX of 1873.
			the words To be placed under the officer appointed to control the affairs of Arakan,	Obsolete, the appointment referred to having been abolished.
			and the figures and words from 17th *to* Rungpore.	The office of "Commissioner of Assam and the North-East parts of Rungpur" has been abolished. The whole of Ben. Reg I of 1829 has been repealed by the Assam Land and Revenue Regulation, 1886 (I of 1886), in territories in which the latter Regulation has been declared in force.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part I.—Regulations of the Bengal Code—concld.		
1829	I	Revenue Commissioners—*contd.*	Sections 6 to 8 . .	Section 6 is a repealing clause. It is spent. The first paragraph of section 7 is an abolition and repealing clause, and is spent. Ben Reg. X of 1808, which is mentioned in the paragraph, was entirely repealed by the Repealing Act, 1868 (VIII of 1868). The second paragraph of section 7 authorised Commissioners of Revenue and Circuit to exercise the functions of Superintendents of Police. It was repealed by Act XXIV of 1837 in areas for which Superintendents of Police were appointed under that Act, and is obsolete everywhere. See now section 4 of the Police Act, 1861 (V of 1861), which places the district police under the general control and direction of the District Magistrate. The third paragraph of section 7 relates to tender of pardon. It is superseded by the Code of Criminal Procedure, 1898 (Act V of 1898), sections 337 and 338. Section 8 is obsolete. There is now no "Commissioner for the Division of Cuttack and Midnapur".
			Section 9, clause *First* .	Obsolete. Ben. Reg. I of 1829 is not now in force in Burma, and has been repealed in the greater part of Assam by the Assam Land and Revenue Regulation, 1886 (I of 1886).
			Section 10. .	This section is omitted from Clarke's Edition of the Regulations as having been "superseded by Act III of 1835," and it is omitted from the Bengal Code, Vol. I, Ed. 1889, as having been "repealed by Act III, 1835." But the section does not appear to have ever been expressly repealed.
1833	IV	Convict Labourers . .	The whole . . .	Superseded by section 55 of the Prisons Act, 1894 (IX of 1894).
"	IX	Land-revenue (Settlement and Deputy Collectors.)	In the title, and in section 1, *the words and figures* and Regulation IV of 1828.	The portions of Ben. Reg. IX of 1833, which referred to Ben. Reg. IV of 1828, have been repealed.
			Section 2 and the first sentence of section 3.	Repealing clauses. Spent.
			In sections 8, 24 and 25, *the word* Sadr.	The Board of Revenue is not now called the "Sadr" Board.
		Part II.—Acts of the Governor General in Council.		
1836	XXI	Districts	*The words* and to alter the limits of existing zilas.	Superseded in Bengal by Ben. Act IV of 1864.
			The whole Act, so far as it applies to the United Provinces of Agra and Oudh.	Superseded in the United Provinces by section 11 of U. P. Act III of 1901.
1837	VI	Land-revenue Settlement, Cuttack.	So much as is unrepealed	Expired.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part II.—Acts of the Governor General in Council—contd.		
1847	IX	Alluvion and Diluvion . .	In section 4, *the word* Government.	The Gazette is now known as "the Calcutta Gazette".
			In sections 5 and 6, *the word* Sadr, *where it occurs before the word* Board.	The Board is now known as the Board of Revenue.
			In section 9, *the words* Except as regards the proprietary right to islands.	These words became meaningless on the repeal of section 7 of the Act by Ben. Act IV of 1868. See now section 3 of the latter Act.
1850	XXXIII	The Sale of Patni-tenures Act, 1850.	So much as is unrepealed.	Section 1 is the only section of this Act which now remains on the Statute-book, and it has been superseded by the repeal of the words "to the Civil Court of the district, and a similar one" in Ben. Reg. VIII of 1819, section 8, clause *Second*, by the Repealing Act, 1874 (XVI of 1874).
1853	XIX	The Recusant Witnesses Act, 1853.	So much as is unrepealed, except so far as it is in force in Assam.	Only the title and section 26 remain on the Statute-book. Section 26 was declared in force in Bengal by the Laws Local Extent Act, 1874 (XV of 1874), and in the United Provinces (except as regards scheduled districts) by the Laws Local Extent Act, 1874 (XV of 1874), and Act XVIII of 1876, and has been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in Assam; but it is not necessary to retain the section, except, perhaps, in Assam. The similar section (10) in Act X of 1855, which was in force in the Madras and Bombay Presidencies, was repealed by the Repealing and Amending Act, 1901 (XI of 1901).
1854	XX	Amendment of Bengal Regulation XIII of 1833 (Administration of parts of the Ramgarh Jungle Mahals and Midnapur districts).	The whole . . .	Ben. Reg. XIII of 1833 was repealed by the Repealing Act, 1876 (XII of 1876), and there can be no advantage in retaining Act XX of 1854 on the Statute-book, since it merely amended the Regulation of 1833.
"	XXVI	Education of male minors subject to Court of Wards.	The whole . . .	This Act, which has been repealed in Bengal, the United Provinces (except certain scheduled areas), Assam, Burma and the N.-W. Frontier Province, is possibly in force in the Punjab and some Scheduled Districts of the United Provinces, but is obsolete.
1855	XXXII	Embankments . . .	In section 21, *the words from* words importing the singular *to* females.	Number and gender clause. Superseded by section 13 of the General Clauses Act, 1897 (X of 1897).
1856	XXII	Karatoyá Tolls . . .	In section 4, *the words* or other officer exercising the powers of a Magistrate.	Superfluous. At the present day trials under this section would be held by Magistrates of the second class, since the fine imposable is Rs. 200—*cf.* section 32 of the Code of Criminal Procedure, 1898 (V of 1898).

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part II.—Acts of the Governor General in Council—contd.		
1856	XXII	Karatoyá Tolls—*contd.*		The proposed repeal is desirable on another ground also, namely, to avoid the confusion which would result from the application of section 3 (2) of the Code of Criminal Procedure, 1898, to section 4 of Act XXII of 1856.
1857	XXI	Offences, Howrah	In section 54, *the words from* The provisions *to* Provided that.	Superseded by section 5 (2) of the Code of Criminal Procedure, 1898 (V of 1898), and section 25 of the General Clauses Act, 1897 (X of 1897).
			Section 55	This section relates to the recovery of costs and expenses "by this Act directed to be paid." It is obsolete, since the unrepealed portions of the Act contain no such direction.
			In section 57, *the words* Suburbs or, *in both places in which they occur.*	These words are obsolete, Act XXI of 1857 having been repealed in the Suburbs of Calcutta by Ben. Act VIII of 1868. Similar words occurring in other sections of the Act of 1857 were repealed by the Repealing Act, 1874 (XVI of 1874).
			In section 59, *the words from* words importing the singular *to* females.	Number and gender clause. Superseded by section 13 of the General Clauses Act, 1897 (X of 1897).
1858	XXXI	Alluvial Land Settlement	Section 3	Validation clause. Spent.
1859	X	Rent	In sections 3 and 15, *the words* and Benares.	Act X of 1859 was repealed in Benares (except the Family Domains of the Maharaja) by Act XVIII of 1873.
			In section 28, *the words and figures* section X, Regulation XLI, 1795, section VI, Regulation XXXI, 1803, section XXI, Regulation VIII, 1805,	The Regulations mentioned were entirely repealed (except in certain scheduled areas) by Act XIX of 1873.
			and the words from If such period *to the end.*	Temporary provision. Expired.
			Section 29, the second paragraph.	Obsolete in consequence of the repeal of Ben. Reg. VII of 1799 by the Repealing Act, 1874 (XVI of 1874).
			In section 32, *the words from* For arrears *to* first expire.	Temporary provisions. Expired.
			In section 33, *the words from* or, in the case *to* first expire, *and the words* (except the case of claims now existing as aforesaid).	(Temporary provisions. Expired.)
			In section 163, *the words* Except as provided in the last preceding section.	Obsolete, section 162 having been repealed by Ben. Act VI of 1862.
			In section 168, *the words from* Unless *to* females.	Number and gender clause. Superseded by section 13 of the General Clauses Act, 1897 (X of 1897).

THE THIRD SCHEDULE—contd.

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
Part II.—Acts of the Governor General in Council—contd.				
1859	XI	Land-revenue Sales . .	In section 18, proviso, *the words* and it is hereby enacted.	Surplusage.
			In section 22, *the words* notes or.	Obsolete. The Bank of Bengal does not now issue notes.
			Schedule B . . .	Superseded by the Schedule appended to Ben. Act III of 1862.
1867	XXXII	The Chief Commissioners' Powers Act.	In the preamble, *the words* and British Burma.	This Act is obsolete in Burma, which is not now a Chief Commissionership.
			In section 1, *the words* or British Burma.	
1869	XVI	The Bhutan Duars Act, 1869 .	So much as is unrepealed	This Act has been repealed in the Western Bhutan Duars by Ben. Act VII of 1895, and is no longer required in the Eastern Duars in Assam.
1870	XXVII	The Indian Penal Code Amendment Act, 1870.	Section 5 . . .	Superseded by section 4 of the Indian Penal Code Amendment Act, 1898 (IV of 1898).
1871	XIX	The Bengal Sessions Courts Act, 1871.	So much as is unrepealed .	Sections 1 to 6 were repealed by the Code of Criminal Procedure, 1872 (Act X of 1872), and the title and preamble are obsolete in consequence of that repeal. The only other section of the Act is section 7, which is an indemnity clause and is spent.
1873	XIV	The Lunatic Soldiers' Property Act, 1873.	So much as is unrepealed.	Superseded by the Regimental Debts Act, 1893 (56 & 57 Vict., c. 5), and the Indian Articles of War (Act V of 1869), Art. 179 [as amended by the Indian Articles of War Amendment Act, 1894 (XII of 1894), section 72].
1874	XV	The Laws Local Extent Act, 1874.	So much of sections 6 and 7 and the fourth and fifth Schedules as relates to Act XIX of 1853 (*Recusant Witnesses*).	It is proposed to repeal Act XIX of 1853 in Bengal and the United Provinces—see *ante*.
			So much of section 7 and the fifth Schedule as relates to Act XXI of 1836 (*Creating Zilas*).	It is proposed to repeal Act XXI of 1836 in the United Provinces—see *ante*.
1876	XVIII	The Oudh Laws Act, 1876 .	So much of section 3 and the second Schedule as relates to Act XIX of 1853 (*Recusant Witnesses*).	It is proposed to repeal Act XIX of 1853 in Oudh—see *ante*.
1877		The Military Lunatics Act, 1877.	In section 3, *the words* and has been ordered to be forwarded to any one of the Presidency-towns.	It is unnecessary to require that military men who become insane should be ordered to be sent to a Presidency-town before they can be admitted into an asylum.

THE THIRD SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
		Part II.—Acts of the Governor General in Council—contd.		
1878	XII	Laws, Punjab (Amending Act IV of 1872).	Section 8 . . .	The section (52) which was added to the Punjab Laws Act, 1872, by section 8 of Act XII of 1878, was repealed by the Northern India Takkavi Act, 1879 (X of 1879).
1880	IV	The Portuguese Treaty Act, 1880.	The whole . . .	This Act gave effect to a Convention set forth in the Schedule to the Act. The Convention has terminated (*see* Gazette of India, 1891, Pt. I, p. 321), and the Act has consequently become obsolete.
1881	X	The Coroners Act, 1881 .	In section 1, *the words* and shall come into force on the passing thereof.	Commencement clause. Spent.
"	XVII	The Portuguese Convention Act, 1881.	The whole . . .	This Act gave effect to a Convention set forth in the Schedule to the Act. The Convention has terminated (*see* Gazette of India, 1891, Pt. I, p. 321), and the Act has consequently become obsolete.
1882	XVIII	The Burma Steam-boilers and Prime-movers Act, 1882.	In section 18, *the word* thrice *and the word* last.	One publication is sufficient.
1885	IX	The Excise and Sea Customs Law Amendment Act, 1885.	So much of section 4 as is unrepealed.	So much of section 4 as related to Act XXII of 1881 has been repealed by the Excise Act, 1896 (XII of 1896). The rest of the section has been rendered obsolete by the issue of a series of notifications (commencing with one dated the 21st March, 1887) under section 18 of the Bengal Excise Act, 1878 (VII of 1878), fixing rates of excise duty on spirits manufactured in Bengal.
1886	XV	Land-revenue, United Provinces (Amending Act XIX of 1873).	The whole . . .	Superseded by section 13 of U. P. Act III of 1901.
1887	IV	The Indian Museum Act, 1887.	Section 4 . . .	Sub-section (*1*) of this section is obsolete, all the persons referred to in it having ceased to be Trustees. Sub-section (*2*) is spent.
1888	X	The Presidency Small Cause Courts Law Amendment Act, 1888.	In the title and preamble, *the words and figures* and the Presidency Small Cause Courts Act, 1882.	Section 2 is the only section of this Act which relates to the Presidency Small Cause Courts Act, 1882, and it is proposed expressly to repeal that section.
			Section 2 and the second Schedule.	Virtually repealed by section 12 of the Presidency Small Cause Courts Act, 1895 (I of 1895).
1890	XVII	The Indian Census Act, 1890.	The whole . . .	Expired.
1891	XII	The Repealing and Amending Act, 1891.	In the title, *the words* to repeal certain obsolete enactments and *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* repealed; And, *and the word* also. In section 1, *the words* Repealing and. Section 2, sub-section (*1*).	The matter proposed for repeal relates to the repeal of prior enactments. It is spent.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part II.—Acts of the Governor General in Council—contd.		
1891	XII	The Repealing and Amending Act, 1891—*contd.*	So much of section 2, sub-section (2), and the second Schedule, Part I, as relates to the following enactments, namely:—	
			Act V of 1869 (Indian Articles of War), Part I, clause (*c*);	Superseded by section 2 of the Indian Articles of War Amendment Act, 1894 (XII of 1894), which repealed clause (*c*) of Part I of Act V of 1869.
			Act XVII of 1876 (Oudh Land-revenue Act, 1876); and	Act XVII of 1876 has been repealed by U. P. Act III of 1901.
			Act XII of 1881 .	Superseded by section 169 of U. P. Act II of 1901, section 2 of which repealed Act XII of 1881.
			Section 3 . . . The first Schedule .	The matter proposed for repeal relates to the repeal of prior enactments. It is spent.
1892	IV	The Court of Wards Act (Bengal) Amendment Act, 1892.	In section 1, *the word* and *and* sub-section (2).	Commencement clause. Spent.
1893	II	The Porahat Estate Act, 1893.	In section 1, *the word* and *and* sub-section (2).	Commencement clause. Spent.
,,	XI	The Tributary Mahals of Orissa Act, 1893.	In the preamble, *the words* to repeal certain enactments relating to the Tributary Mahals of Orissa and.	These words refer to section 2 of the Act, which it is proposed to repeal—see *post.*
			In section 1, *the word* and, *and* sub-section (3).	Commencement clause. Spent.
			Section 2 and the Schedule.	Repealing clause and Schedule. Spent.
1894	IV	The Repealing and Amending Act, 1894.	In the title, *the words* to repeal certain obsolete enactments and *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* repealed; And, *and the word* also. In section 1, *the words* Repealing and. Section 2, sub-section (*1*). Section 3 . . . The first Schedule .	The matter proposed for repeal relates to the repeal of prior enactments. It is spent.
,,	XIII	The Repealing and Amending (Army) Act, 1894.	In section 1, *the words* Repealing and. Section 2, sub-section (*1*), and the first Schedule.	The matter proposed for repeal relates to the repeal of prior enactments. It is spent.
,,	XVI	Tariff (Amending Act VIII of 1894).	The whole . . .	Superseded by the Indian Tariff Act (1894) Amendment Act, 1896 (III of 1896).
1895		The Presidency Small Cause Courts Act, 1895.	Section 4 . . .	Superseded by section 3 of the Presidency Small Cause Courts Act, 1899 (III of 1899).

THE THIRD SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
		Part II.—Acts of the Governor General in Council—concld.		
1895	XVI	The Repealing and Amending Act, 1895.	In the title, *the words* to repeal certain obsolete enactments and, *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* repealed; And, *and the word* also. In section 1, *the words* Repealing and. Section 2, sub-section (*1*). Section 3 . . . The first Schedule .	The matter proposed for repeal relates to the repeal of prior enactments. It is spent.
			So much of the second Schedule as relates to Bombay Act IV of 1882.	It is proposed to repeal Bombay Act IV of 1882—see *post*.
1896	VII	The Presidency Small Cause Courts Act (1882) Amendment Act, 1896.	The whole . . .	Repealing Act. Spent.
"	XIV	Repealing part of the Government Tenants (Punjab) Act, 1893.	The whole . . .	Repealing Act. Spent.
1897	II	The Criminal Tribes Act Amendment Act, 1897.	In section 1, *the word* and *and* sub-section (*2*).	Commencement clause. Spent.
"	V	The Repealing and Amending Act, 1897.	In the title, *the words* to repeal certain obsolete enactments and *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* specifically repealed; And, *and the word* also *where it first occurs.* In section 1, *the words* Repealing and. Section 2, sub-section (*1*) Section 3 . . . The first Schedule .	The matter proposed for repeal relates to the repeal of prior enactments. It is spent.
"	X	The General Clauses Act, 1897.	Section 2 and the schedule.	Repealing clause and schedule. Spent.
"	XI	The Bhopal Coinage Act, 1897.	The whole . . .	This Act continued in force only for six months from the date of the first supply of rupees under it—see section 3. It has expired, the first supply of rupees having been made in November, 1897.
1898	III	The Lepers Act, 1898 . .	Section 19 . . .	Repealing clause. Spent.
"	XIII	The Burma Laws Act, 1898 .	In the preamble, *the word* repeal. Section 18 . . The fifth Schedule. .	The matter proposed for repeal relates to the repeal of prior enactments. It is spent.
1900	III	The Prisoners Act, 1900 .	Section 31 . . .	See note regarding amendment of section 29 of Act III of 1900 in Schedule II, *ante*.
1901	I	Native Military Lunatics (repeal of enactments).	The whole . . .	Repealing Act. Spent.
"	XI	The Repealing and Amending Act, 1901.	In the preamble, *the words from* And whereas it is also expedient that certain enactments *to* repealed. In section 1, *the words* Repealing and. Section 3, sub-section (2) Section 4 . . The third Schedule .	The matter proposed for repeal relates to the repeal of prior enactments. It is spent.

V H—

THE THIRD SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
		Part III.—Bengal Acts.		
1862	III	Land-revenue Sales . .	In the preamble, *the word* under *where it first occurs, and the words* and farms, *where they first occur.*	It is proposed to repeal the first two paragraphs of section 2, (see *post*); and the proposed repeals, opposite, will bring the preamble into harmony with the third paragraph of that section.
			In section 2, the first two paragraphs.	Temporary provisions. Expired.
"	VI	Rent	Section 1 . . .	Repealing clause. Spent.
			In sections 2, 3, 12, 14 and 16, *the words* hereafter to be brought.	Temporary provisions. Expired.
			In section 8 *the words* instituted after the passing of this Act.	Temporary provision. Expired.
			In section 14, *the words and figures* So much of section LXXI of Act X of 1859 as directs that no fee for any agent shall be charged as part of the costs of suit in any case under the Act is hereby repealed.	Spent. The repeal made by Ben. Act VI of 1862, section 14, was, moreover, made again by the Pleaders, Mukhtars and Revenue Agents Act, 1865 (XX of 1865).
			In section 17, *the words* hereafter to be instituted.	Temporary provisions. Expired.
			In section 18, *the words* after the date of the passing of this Act.	
			In section 21, *the words* except as regards suits instituted thereunder before the passing of this Act.	
			In Schedules A and B, *the word* Company's, *wherever it occurs.*	Obsolete.
1863	II	Smoke Nuisances, Calcutta and Howrah.	In section 1, *the words and figures* on and after the first day of July, 1864, *and the words and figures* on or after the said first day of July, 1864, and.	Temporary clauses. Expired.
			Section 6 . . .	Number and gender. Superseded by section 14 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
			In section 7, *the words and figures from* All penalties imposed *to* time being.	Recovery of fines. The matter proposed for repeal refers to enactments which have been repealed, and it is superseded by section 26 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		***Part III.—Bengal Acts*—contd.**		
1864	V	The Canals Act, 1864 . .	In the preamble, *the word* the, *where it occurs before the word* canals, *and the words* specified in the Regulations and Acts in the Schedule to this Act annexed.	It is proposed to repeal the Schedule—see *post.*
			In section 1, *the words from* Words importing the singular *to* feminine.	Number and gender. Superseded by section 14 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
			In section 2, the last thirty-four words.	Repealing clause. Spent.
			In section 3, *the words and figures* Act VI of 1857 (*for the acquisition of land for public purposes*) or of, *the word* other, *and the words* that may now or hereafter be.	Act VI of 1857 was repealed by the Land Acquisition Act, 1870 (X of 1870), and the latter Act has been repealed by the Land Acquisition Act, 1894 (I of 1894). The matter proposed for repeal has therefore become superfluous.
			Section 17 . . .	Recovery of fines. This section refers to a repealed Act, and is superseded by section 26 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
			The Schedule . .	Schedule of repealed enactments. Spent. [The enactments detailed in the schedule have all been repealed by the Repealing Act, 1873 (XII of 1873)].
,,	VII	The Salt Act, 1864 . .	In section 3, *the words* the word "Magistrate" shall mean any person exercising the full powers of a Magistrate under the Code of Criminal Procedure,	Superseded by Ben. Act I of 1873, sections 1 and 2.
			and the words from words importing the singular *to* feminine.	Number and gender. Superseded by section 14 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
			Sections 35 and 36 .	Recovery of fines. Section 35 refers to enactments which have been repealed, and both sections 35 and 36 are superseded by section 26 of the Bengal General Clauses Act, 1890 (Ben. Act I of 1899).
			In section 40, *the words and figures* section 35 of.	It is proposed to repeal section 33—*see ante.*
1865	III	Fire in Ports . . .	So far as it is unrepealed.	Owing to the terms of sections 1 and 2 of the Petroleum Act, 1881 (VIII of 1881), it is not quite clear whether the repeal of Ben. Act III of 1865, which was effected by Act VIII of 1881, operated throughout Bengal, or only in particular parts of that province. It is desirable to remove this doubt.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part III.—Bengal Acts—contd.		
1865	IV	Prevention of Inoculation	In section 4, as in force in Bengal, *the words* and to the recovery of fines.	Superseded in Bengal by section 26 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
			In section 4, *the words and figures from* beyond the town of Calcutta *to* said town.	Obsolete, in consequence of the repeal of Acts XIII of 1856 and XLVIII of 1860 in Calcutta by the Calcutta Police Act, 1866 (IV of 1866), and the repeal of the portions of the latter Act which dealt with criminal procedure by the Presidency Magistrates Act, 1877 (IV of 1877). The present Code of Criminal Procedure (Act V of 1898) applies to Calcutta as well as to the mufassal.
"	VII	Slaughter-houses and Meat-markets.	In the title and preamble, *the words* in the Suburbs of Calcutta.	Ben. Act VII of 1865 was repealed in the Suburbs of Calcutta by the Calcutta Municipal Consolidation Act, 1876 (Ben. Act IV of 1876), and is now applicable only to "towns and places" to which it has been, or may hereafter be, extended by notification under section 9.
			In section 8, *the words and figures* and the magisterial powers conferred upon the Municipal Commissioners by section VI of the above Act shall be exercised by them for all the purposes of this Act.	Obsolete. The references, in Ben. Act VII of 1865, to Ben. Act III of 1864, must now be taken to be made to the Bengal Municipal Act, 1884 (Ben. Act III of 1884)—see the amendment made by Ben. Act IV of 1894, section 2 (2); and the Act of 1884 does not confer magisterial powers on the Municipal Commissioners.
"	VIII	Rent Recovery (Under-tenures)	In section 1, the second sentence.	Number clause. Superseded by section 14 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
1866	II	Calcutta Suburban Police	Section 31 . . .	This section relates exclusively to sections 25, 26 and 29 of the Act, which were repealed by Ben. Act II of 1867, section 17. It is, in consequence of that repeal, obsolete.
			In section 51, *the words from* words importing the singular *to* females.	Number and gender. Superseded by section 14 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
			Section 52 . . .	Repealing clause. Superseded by Ben. Act VIII of 1868.
"	III	Bengal Legislative Council (Witnesses).	In section 6, *the words from* words importing the singular *to* feminine.	Number and gender. Superseded by section 14 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
"	IV	The Calcutta Police Act, 1866	In section 3, *the words from* words importing the singular *to* females.	Number and gender. Superseded by section 14 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
			In section 77, *the words and figures* or with any of the offences numbered 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 20, 21, 22, 23, 24 and 25 in section 26 of this Act.	Obsolete. Section 26 of the Act was repealed by the Presidency Magistrates Act, 1877 (IV of 1877).

THE THIRD SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
		Part III.—Bengal Acts—contd.		
1866	IV	The Calcutta Police Act, 1866 —*contd.*	Form B in the Schedule .	The section (97) on which Form B depended was repealed by the Presidency Magistrates Act, 1877 (IV of 1877).
"	VII	Embankments . . .	In section 10, *the words from* words in the singular *to* females.	Number and gender. Superseded by section 14 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
1867	II	Public Gambling . . .	In section 1, *the words from* words importing the masculine *to the end.*	Gender and number. Superseded by section 14 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
			In section 14, *the words and figures from* The provisions *to* shall apply to, *the words* and penalties, *the words* in any town or place other than the town of Calcutta; and such fines, *and the words and figures from* And the provisions *to the end.*	Recovery of fines. The matter proposed for repeal refers to Acts which have been repealed, and it is superseded by section 26 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
			In section 16, *the words* from and after the passing of this Act, *in both places in which they occur.*	Surplusage.
			Section 17 . . .	Repealing clause. Spent.
"	III	Ports	In section 1, *the words* words importing the singular number include the plural, and words importing the plural number include the singular.	Superseded by section 14 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
			In section 15, *the words* and hospital port-dues, *and the word* respectively.	Section 11, which empowered the Lieutenant-Governor to impose hospital port-dues, was repealed by the Indian Ports Act, 1875 (XII of 1875). This power is now exerciseable under the Indian Ports Act, 1889 (X of 1889), section 49.
			In section 17, *the words from* and the provisions, *where they first occur, to the end.*	Recovery of fines. Part of the matter proposed for repeal refers to enactments which have been repealed, and the whole of it is superseded by section 26 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
			In the third Schedule, *the figures* 11,	Obsolete, section 11 of the Act having been repealed by the Indian Ports Act, 1875 (XII of 1875).
			and the words from Hospital port-dues *to the end.*	Superseded by section 49 of the Indian Ports Act, 1889 (X of 1889). [The reference to hospital port-dues in section 14 of Bengal Act III of 1867 may stand, as there appears to be no corresponding provision in the Indian Ports Act, 1889 (X of 1889).]

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part III.—Bengal Acts—contd.		
1867	IV	Rents (Appeals) . .	The title and preamble .	These refer almost entirely to sections 2 to 4, which it is proposed to repeal.
			Sections 2, 3 and 4 .	Validation clauses. Expired.
			In section 5, *the words* From and after the passing of this Act.	Surplusage.
"	X	Land-revenue Settlement, Cuttack.	The whole . . .	Expired—see preamble.
1868	VII	Land-revenue Sales .	In sections 3 and 4, *the words* From the date when this Act comes into operation.	Temporary clauses. Expired.
			In section 3, *the words from* and the words *to the end.*	Repealing clause. Spent.
			Section 9 . .	Validation clause. Spent.
			Schedules A, B, C and D.	Obsolete, the sections (15, 16, 18, 19, 21 and 22) which referred to these schedules having been repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880).
1869	V	Place of sitting of Courts of Session.	The whole . . .	Superseded by section 9 (2) of the Code of Criminal Procedure, 1898 (V of 1898).
"	VII	Police	Section 1 . . .	Repealing clause. Spent.
1871	IV	The Puri Lodging-house Act, 1871.	In section 3, *the words* From and after the passing of this Act.	Surplusage
			In section 7, *the words* After the passing *of* this Act.	Surplusage
			Section 39 . . .	The power of extension given by this section has never been exercised, and the section is superseded by Bengal Act II of 1879, section 3.
"	VII	Calcutta Port Improvement (Amending Ben. Act V of 1870).	The whole . . .	Superseded by the Calcutta Port Act, 1890 (Ben. Act III of 1890).
"	XI	Census	The whole . . .	Expired.
1874		Calcutta Suburban Police .	So much as is unrepealed.	So far as this Act relates to Act XXI of 1856, it has been repealed by the Bengal Excise Act, 1878 (Ben. Act VII of 1878). So far as it relates to Ben. Act II of 1866, it is superseded by section 5 (2) of the Code of Criminal Procedure, 1898 (V of 1898).
1875	IV	Realization of famine loans .	The whole . . .	Expired, all the loans, in money and grain, made by the Government of Bengal during the famine-relief operations of 1873-74 having been realised.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part III.—Bengal Acts—contd.		
1875	V	The Bengal Survey Act, 1875.	In section 1, *the words from* and shall *to* General.	Commencement clause. Spent.
1876	III	The Bengal Irrigation Act, 1876.	Section 2 and Schedule A.	Repeal of enactments. Spent.
"	VI	The Agrarian Disputes Act, 1876.	The whole . . .	Expired—see section 1.
"	VII	The Land Registration Act, 1876.	In section 1, *the words from* and it shall *to the end.*	Commencement clause. Spent.
			Section 2 . . .	Repealing clause. Spent.
			The Schedule . .	List of enactments repealed. Spent.
1878	V	Land Registration . .	Section 2 , . .	Commencement clause. Spent.
"	VII	The Bengal Excise Act, 1878.	The concluding paragraph of section 3.	Pending proceedings. Expired.
			In section 51, *the words* except in the town of Calcutta, *and the words and figures* and, in the said town, the provisions of sections 164, 165 and 166 of the Presidency Magistrates' Act.	The matter proposed for repeal is obsolete. There is now no separate Code of Procedure for the Presidency-towns, the Presidency Magistrates' Act (IV of 1877) having been repealed and re-enacted by the Code of Criminal Procedure, 1882 (Act X of 1882), which has since been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act V of 1898).
				[*Note.*—By virtue of section 3 (*1*) of Act V of 1898, the reference in section 51 of Bengal Act VII of 1878 to sections 384, 385 and 386 of Act X of 1882 (the Code of Criminal Procedure) has to be taken to be made to section 48 (proviso), section 103 and section 52, respectively, of the Act of 1898. Consequently, no amendment of the reference in question need be made by the present Bill.]
1879	I	The Chota Nagpur Landlord and Tenant Procedure Act.	In section 1, *the words* and the Tributary Mahals,	Superfluous. Since these mahals are not British territory, the Act cannot apply to them.
			and the words from And it shall *to the end.*	Commencement clause. Spent.
			Section 3 . . .	Repealing clause. Spent.
			Section 4 . . .	Pending proceedings. Expired.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part III.—Bengal Acts—contd.		
1879	I	The Chota Nagpur Landlord and Tenant Procedure Act—*contd.*	In section 150, *the words and figures* or of Bengal Act VI of 1876.	Ben. Act VI of 1876 has expired.
			Schedule A . . .	Schedule of repealed enactments. Spent.
"	II	Puri Lodging-houses . .	In the preamble, *the words and figures* to places other than those specified in section 39 of the said Act.	Follows on the proposed repeal of Ben. Act IV of 1871, section 39 [*ante*].
			Section 1 . . .	Commencement clause. Spent.
"	III	Steam-boilers and Prime-movers.	In the title and preamble, *the words* in the town and suburbs of Calcutta and in Howrah.	These words are misleading, as the Act has been extended, by notifications issued under section 1, to many places other than Calcutta and Howrah.
			In section 1, *the words from* and it shall *to* General.	Commencement clause. Spent.
			In section 12, *the words from* No charge shall *to* Calcutta Gazette and.	Temporary provisions. Expired, the 1st April, 1880, having been fixed by notification published in the Calcutta Gazette of the 3rd March, 1880, p. 183.
"	VI	The Darjeeling Steam Tramway Act.	In section 1, *the words from* And it shall *to the end.*	Commencement clause. Spent.
"	VIII	Rent Settlement .	In section 1, *the words from* and it shall *to the end.*	Commencement clause. Spent.
			Section 2 . . .	Repealing clause. Spent.
			In section 4, *the words and figures* or in sections 14, 15 and 18 of Bengal Act VIII of 1869.	Ben. Act VIII of 1869 (the Landlord and Tenant Procedure Act, 1869), is repealed by the Bengal Tenancy Act, 1885 (VIII of 1885), in all places to which the latter Act extends, and is not in force anywhere.
				[Ben. Act VIII of 1879 is still in force in places to which the Bengal Tenancy Act, 1885 (VIII of 1885), has not been extended.]
"	IX	The Court of Wards Act, 1879.	In section 2, *the words and figures from* And all suits *to the end.*	Pending proceedings. Expired.
1880	I	The Calcutta Tramways Act, 1880.	In section 1, *the words from* and it shall *to the end.*	Commencement clause. Spent.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		***Part III.—Bengal Acts*—contd.**		
1880	VI	The Bengal Drainage Act, 1880.	In section 1, *the words from* and it shall *to the end.*	Commencement clause. Spent.
			Sections 60 to 63 . .	Expired. Action under these sections was limited to one year from the commencement of Ben. Act VI of 1880, and no such action was ever taken.
"	VIII	The Bengal Contagious Diseases (Animals) Act, 1880.	In section 1, *the words from* and it shall *to the end.*	
"	IX	The Cess Act, 1880 . .	In section 1, *the words from* and it shall *to the end.*	
1881	V	The Calcutta Burial Boards Act, 1881.	In section 1, *the words from* and it shall *to the end.*	
1882	II	The Bengal Embankment Act, 1882.	In section 1, *the words from* And it shall *to the end.*	
			In section 2, *the words* From such day.	Commencement clauses. Spent.
			In section 46, *the words* after the commencement of this Act.	
1883	I	Excise	Section 13 . . .	
"	III	The Bengal Tramways Act, 1883.	In section 1, *the words from* It shall *to the end.*	
1884	I	Puri Lodging-houses . .	Section 1 . . .	
"	II	Amendment of the Calcutta Tramways Act, 1880.	In section 1, *the words from* And it shall *to the end.*	
			Section 2 . . .	See the note opposite Ben. Act II of 1884 in Schedule II, *ante.*
"	III	The Bengal Municipal Act, 1884.	In section 1, *the words from* But any notification *to the end.*	Temporary provision. Expired
			In section 2, *the words* On the commencement of this Act,	Spent.
			and the words And all proceedings now pending, which may have been commenced under any such enactment, shall be deemed to be commenced under this Act.	Pending proceedings. Expired.
"	V	Calcutta Municipality . .	The whole . . .	This Act was disallowed by the Crown—see Notification, dated 9th September, 1888, in Calcutta Gazette, 26th *idem*, Part IV, page 401.
1886	I	Village Chaukidars . .	In section 1, *the words from* from the date *to the end.*	Commencement clause. Spent.

V K

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		***Part III.—Bengal Acts*—contd.**		
1886	II	Calcutta and Suburban Police	Section 1 . . .	Commencement clauses. Spent.
"	III	Municipalities . . .	Section 1 . . .	Commencement clauses. Spent.
1887	I	The Calcutta Survey Act, 1887.	In section 1, *the words from* and shall *to* General.	Commencement clauses. Spent.
"	V	The Chota Nagpur Rural Police Act, 1887.	In section 1, *the words from* and shall *to* General.	Commencement clauses. Spent.
			In section 38, *the words and figures from* Act VIII *to* repealed and.	Repealing clause. Spent.
1888	I	Municipalities . . .	The whole . .	This Act added a proviso to section 9 of the Bengal Municipal Act, 1884 (Ben. Act III of 1884). It has been superseded by section 4 of Ben. Act IV of 1894, which introduced a new section 9 into the Act of 1884 in place of the original section 9.
"	III	The Howrah Bridge Act Amendment Act, 1888.	In section 2, *the words from* and it shall *to the end.*	Commencement clause. Spent.
1889	III	Loan by Calcutta Port Commissioners to Calcutta Corporation.	The whole . .	Expired, the loan having been repaid.
"	IV	Calcutta Burial Boards .	Section 1 . . .	Commencement clause. Spent.
1890	I	Calcutta and Suburban Police (Superannuation Fund).	Sections 1 and 3 . .	Repealing clauses. Spent.
"	II	Vaccination (Amending Bengal Act V of 1880).	Section 1 . . .	Commencement clause. Spent.
			Section 4, sub-section (3).	Repealing clause. Spent.
1891	II	The Calcutta Hackney Carriage Act, 1891.	Section 1, sub-section (2).	Commencement clause. Spent.
1892	I	Village Chaukidars . .	Section 2, sub-section (1), and sections 6 and 12.	Repealing clauses. Spent.
1893	I	The Licensed Warehouse and Fire-brigade Act, 1893.	Section 1, sub-section (3).	Commencement clause. Spent.
			In section 4, *the words* From and after the commencement of this Act.	Surplusage.
			In section 27, *the words and figures* or at the credit of any fund appropriated to the maintenance of the fire-brigade under the provisions of Act IV of 1883 at the time when this Act comes into force.	Spent. Ben. Act IV of 1883 was repealed by section 2 of Ben. Act I of 1893.
1894	I	The Licensed Warehouse and Fire-brigade Amendment Act, 1894.	In section 1, *the words from* and shall *to the end.*	Commencement clause. Spent.

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		***Part III.—Bengal Acts*—contd.**		
1894	I	The Licensed Warehouse and Fire-brigade Amendment Act, 1894—*contd.*	Sections 4 and 5 . .	The new section (10A) which section 4 introduced into the Licensed Warehouse and Fire-brigade Act, 1893 (Ben. Act I of 1893), directed the payment of a fee for the period from the 28th June, 1893, to the 31st March, 1894. It has expired. The new section (46A) which section 5 introduced into the Licensed Warehouse and Fire-brigade Act, 1893 (Ben. Act I of 1893), merely postponed the operation of section 46 of that Act until the 1st April, 1894. It has expired.
"	II	Calcutta Port . . .	Section 1 . . .	Commencement clauses. Spent.
"	III	The Calcutta Tramways Act, 1894.	In section 1, *the words from* and it shall *to the end.*	Commencement clauses. Spent.
"	IV	Municipalities . . .	In section 1, *the words from* and it shall *to the end.*	Commencement clauses. Spent.
			Sections 5, 9, 46, 51, 77, 83 and 89.	Repealing clauses. Spent.
"	VI	Municipalities . . .	The whole . . .	Repealing Act. Spent.
1895	I	The Public Demands Recovery Act, 1895.	Section 1, sub-section (3).	Commencement clauses. Spent.
"	II	Calcutta and Suburban Police.	Section 1 . . .	Commencement clauses. Spent.
"	IV	Calcutta Port . .	Section 1, sub-section (2).	Commencement clauses. Spent.
			Section 4 . . .	Superseded by section 2 of Ben. Act VI of 1895.
			Section 6 . . .	Repealing clause. Spent.
			Section 14 . . .	Superseded by section 5 of Ben. Act VI of 1895.
			Section 16 . . .	Superseded by section 6 of Ben. Act VI of 1895.
"	VI	Calcutta Port . . .	Section 1, sub-section (2)	Commencement clause. Spent.
			In section 2, *the words and figures* as amended by section 4 of Act IV (B. C.) of 1895.	It is proposed to repeal section 4 of Ben. Act IV of 1895—see *ante.*
			In section 5, *the words and figures* as amended by section 14 of Act IV of 1895 (B. C.).	It is proposed to repeal section 14 of Ben. Act IV of 1895—see *ante.*
			In section 6, *the words and figures* as amended by section 16 of Act IV of 1895 (B. C.).	It is proposed to repeal section 16 of Ben. Act IV of 1895—see *ante.*
"	VII	The Bhutan Duars Repealing Act, 1895.	The whole . . .	Repealing Act. Spent.
"	VIII	The Bengal Sanitary Drainage Act, 1895.	Section 1, sub-section (3).	Commencement clause. Spent.

THE THIRD SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
		***Part III.—Bengal Acts*—concld.**		
1895	IX	The Calcutta Electric Lighting Act, 1895.	Section 1, sub-section (2).	Commencement clause. Spent.
1896	II	Municipalities . . .	Section 1 . . .	Commencement clause. Spent.
			Section 9, sub-section (4), and section 19.	Repealing clauses. Spent.
1897	I	Public Demands Recovery .	Section 1 . . .	Commencement clause. Spent.
			Section 3 . . .	Repealing clauses. Spent.
"	IV	The Chota Nagpur Commutation Act, 1897.	Section 2 . . .	Repealing clauses. Spent.
1898	I	The Calcutta Police Act, 1898.	In section 1, *the word* and, *and* sub-section (2).	Commencement clauses. Spent.
"	II	The Calcutta Port (Amendment) Act, 1898.	In section 1, *the word* and, *and* sub-section (2).	Commencement clauses. Spent.
"	III	The Bengal Tenancy (Amendment) Act, 1898.	In section 1, *the word* and, *and* sub-section (2).	Commencement clauses. Spent.
			Section 11 . . .	Repealing clauses. Spent.
1899	I	The Bengal General Clauses Act, 1899.	Section 2 . . .	Repealing clauses. Spent.
"	III	The Calcutta Municipal Act, 1899.	In section 1, *the words and figures* and (3) It shall come into force on the first day of April, 1900.	Commencement clause. Spent.
			The proviso to section 1.	Temporary provision. Expired.
			In section 2, *the words and figures* On and from the said first day of April, 1900.	Commencement clause. Spent.
			Section 60, sub-section (1).	Determination of term of office of prior Commissioners. Spent.
1900	I	The Darjeeling Municipal Act, 1900.	In the preamble, *the words* and to provide for the temporary exercise by the Local Government of certain powers of the Commissioners of the Darjeeling Municipality.	It is proposed (see *post*) to repeal Part II of this Act, to which these words refer.
			Section 23 . . .	Repealing clause. Spent.
			Part II (sections 24 to 28)	By virtue of notification No. 1669, dated 9th April, 1902, Part II of this Act has ceased to have effect.
			Schedules E, F and G .	Schedule E contains a list of repealed clauses. It is spent. Schedules F and G are annexures to sections 27 and 28, which it is proposed (see *ante*) to repeal.
"	II	The Calcutta Municipal Act, 1900.	The whole . . .	Validation Act. Spent.
		Part IV.—Madras Acts.		
1880	II	Repealing Madras Act III of 1863.	The whole . . .	Repealing Act. Spent.

THE THIRD SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
		Part IV.—Madras Acts.—contd.		
1881	II	Repealing Madras Act I of 1868.	The whole . . .	Repealing Acts. Spent.
1882	II	Repealing Madras Regulation XIV of 1816.	The whole . . .	
		Part V.—Bombay Acts.		
1872	I	Police, Bombay Town . .	So much as is unrepealed	Superseded by the City of Bombay Police Act, 1902 (Bom. Act IV of 1902).
1879	I	District Municipalities . .	So far as it is unrepealed	Superseded by the Bombay District Municipal Act, 1901 (Bom. Act III of 1901).
"	II	Police, Bombay Town . .	The whole . . .	Superseded by the City of Bombay Police Act 1902 (Bom. Act IV of 1902).
1882	IV	Police, Bombay Town . .	The whole . . .	Ditto.
1885	IV	Local Boards and District Municipalities.	In the title, *the words and figures* and the Bombay District Municipal Act Amendment Act, 1884. Section 5 and the preamble prefixed thereto.	This portion of the title relates only to section 5 of the Act, which it is proposed *post* to repeal. Superseded by section 15 of the Bombay District Municipal Act, 1901 (Bom. Act III of 1901).
1888	I	Local Boards and District Municipalities.	In the title and preamble, *the words and figures* and the Bombay District Municipal Act Amendment Act, 1884. In section 1, *the words and figures* and to section 18 of the Bombay District Municipal Act Amendment Act, 1884.	This portion of the title and preamble relates only to that part of section 1 of the Act which it is proposed *post* to repeal. Superseded by section 17 of the Bombay District Municipal Act, 1901 (Bom. Act III of 1901).
1892	III	The Bombay Abkári Act Amendment Act, 1892.	Section 5 . . .	Superseded by section 16 of the Bombay Abkári Act Amendment Act, 1901 (Bom. Act V of 1901).
		Part VI.—United Provinces Act.		
1894	I	Repealing the Tarai Regulation, 1876.	The whole . . .	Repealing Act. Spent.
		Part VII.—Regulations made under the Government of India Act, 1870 (33 & 34 Vict, c. 3).		
1871	I	Peshawar District Limitation Regulation, 1871.	The whole . . .	Expired—see section 6.

V L

THE THIRD SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
		Part VII.—Regulations made under the Government of India Act, 1870 (33 & 34 Vict., c. 3)—contd.		
1872	III	The Sonthál Parganas Settlement Regulation.	So much of section 3, sub-section (*1*), and the Schedule (as amended by section 3 of the Sonthál Parganas Justice and Laws Regulation, 1899) as relates to the following enactments, namely:—	
			Act XXXVIII of 1850 (The Sale of Patni Tenures Act, 1850);	It is proposed to repeal this Act—see *ante.*
			Act XV of 1869 (The Prisoners' Testimony Act, 1869);* Act I of 1882 (The Assam Labour and Emigration Act 1882);† Act IX of 1882 (The Prisoners Act Amendment Act, 1882);* Act V of 1888 (the Inventions and Designs Act, 1888) section 2;‡ Act VII of 1893 (The Inland Emigration Act, 1893);† Act VII of 1894 [The Prisoners Act (1871) Amendment Act, 1894];* Bengal Act I of 1889 (The Inland Emigrants' Health Act, 1889);†	* These Acts are repealed in the Sonthál Parganas by the Prisoners Act, 1900 (III of 1900). † These Acts are repealed in the Sonthál Parganas by the Assam Labour and Emigration Act, 1901 (VI of 1901). ‡ Section 2 of Act V of 1888 is merely a repealing clause, and has no value in the Sonthál Parganas.
			Bengal Act VI of 1894 (Municipalities);	It is proposed to repeal this Act—see *ante.*
			Bengal Act V of 1895 (The Lepers Act, 1895); and	It does not seem to be necessary to have this Act in force in the Sonthál Parganas in addition to Act III of 1898 (the Lepers Act, 1898), which is entered in the new Schedule appended to Reg. III of 1872 by Reg. III of 1899, section 3. The Act of 1895 has been repealed throughout the rest of Bengal by the Act of 1898 and Notification No. 228, dated the 18th May, 1901 (Calcutta Gazette, 1901, Pt. I, p. 645), issued under it.
			Regulation III of 1886 (The Sonthál Parganas Laws Regulation, 1886).	This Regulation is superseded by section 3 of the Sonthál Parganas Justice and Laws Regulation, 1899 (III of 1899).

THE THIRD SCHEDULE—*contd.*

1	2	3	4	5
Year.	No.	Subject or short title.	Extent of repeal.	REMARKS.
		Part VII.—Regulations made under the Government of India Act, 1870 (33 & 34 Vict., c. 3)—contd.		
1872	III	The Sonthál Parganas Settlement Regulation—*contd.*	In section 25, *the words* if any suit affecting such rights be pending at the time when this Regulation shall come into operation, or.	Temporary provision. Expired.
1873	V	Bengal Eastern Frontier Regulation, 1873.	In the preamble, *the words* and Chittagong Hills.	This Regulation is not now in force in the Chittagong Hills—see the Chittagong Hill-tracts Regulation, 1900 (I of 1900), section 4 (2).
1874	IX	The Arakan Hill District Laws Regulation, 1874.	So much of section 3 and the Schedule as relates to Act XXXIV of 1855 (Enforcement of judgments of Charter Courts) and Act XXXII of 1867 (The Chief Commissioners' Powers Act).	Act XXXIV of 1855 was repealed by Act X of 1877. Act XXXII of 1867 is obsolete in Burma, which is not now a Chief Commissionership.
1881	III	The Chittagong Hill Tracts Frontier Police Regulation, 1881.	In section I, *the words from* and it shall *to the end.*	Commencement clause. Spent.
1886	II	The Sonthál Parganas Rent Regulation, 1886.	The preamble *to* made and.	The portion of the preamble proposed for repeal cited section 19 of the Sonthál Parganas Settlement Regulation (III of 1872), which was repealed by section 5 of Regulation II of 1886.
			Section 1, sub-section (2)	Commencement clause. Spent.
			Section 5 . . .	Repealing clause. Spent.
			In section 22, sub-section (*1*) *the words and figures* under Bengal Act VII of 1880.	Ben. Act VII of 1880 has been repealed by the Public Demands Recovery Act, 1895 (Ben. Act I of 1895), section 3 (*3*) of which does not carry on references in Regulations. The matter proposed for repeal is, moreover, superfluous, in view of section 7 (*ii*) of the Act of 1895.
"	III	The Sonthál Parganas Laws Regulation, 1886.	So much as is unrepealed.	Superseded by the Sonthál Parganas Justice and Laws Regulation, 1899 (III of 1899), section 3.
"	VII	The Upper Burma Criminal Justice Regulation, 1886.	So much as is unrepealed.	Expired—see section 4, as amended by Reg. VI of 1890, section 2.
1890	I	The British Baluchistan Laws Regulation, 1890.	So much of section 3, sub-section (*1*), and the Schedule as relates to Act XIV of 1873 (Lunatic Soldiers).	It is proposed to repeal Act XIV of 1873—see *ante*.
"	VI	Criminal Justice, Upper Burma.	The whole . . .	This Regulation merely amends Reg. VII of 1886, which has expired. It is therefore obsolete.
1893	V	The Sonthál Parganas Justice Regulation, 1893.	Section 2 . . .	Repealing clause. Spent.
"	IX	The Ajmer Repealing and Amending Regulation, 1893.	In the title, *the words* to repeal certain obsolete enactments and, *and the word* other.	The matter proposed for repeal relates to the repeal of prior enactments. It is spent.
			In the preamble, *the words from* Whereas it is expedient *to* repealed; And *and the word* also.	
			In section 1, *the words* Repealing and.	
			Section 2, sub-section (*1*)	
			Section 3 . . .	
			The first Schedule .	

THE THIRD SCHEDULE—*contd.*

Part VII.—Regulations made under the Government of India Act, 1870 (33 & 34 Vict., c. 3)—contd.

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
1894	I	The Angul District Regulation, 1894.	So much of section 3, sub-section (*1*), and the schedule as relates to the following Acts, namely :—	
			Act XIV of 1866 (Post Office) ;	This Act is repealed by the Indian Post Office Act, 1898 (VI of 1898), which has been declared (*see* Calcutta Gazette, 1901, Pt. I, p. 1534) to be in force in Angul.
			Act I of 1868 (General Clauses) ;	This Act is repealed by the General Clauses Act, 1897 (X of 1897), which has been declared (*see* Calcutta Gazette, 1899, Pt. I, p. 1064) to be in force in Angul.
			Act XV of 1869 (Prisoners Testimony) ;	This Act is repealed by the Prisoners' Act, 1900 (III of 1900), which has been declared (*see* Calcutta Gazette, 1901, Pt. I, p. 885) to be in force in Angul.
			Act X of 1870 (Land Acquisition) ;	This Act is repealed by the Land Acquisition Act, 1894 (I of 1894), which has been declared (*see* Calcutta Gazette, 1901, Pt. I, p. 1534) to be in force in Angul.
			Act XXVI of 1870 (Prisons) ;	This Act is repealed by the Prisons Act, 1894 (IX of 1894), which has been declared (*see* Calcutta Gazette, 1901, Pt. I, p. 1534) to be in force in Angul.
			Act I of 1879 (Stamps);	This Act is repealed by the Indian Stamp Act, 1899 (II of 1899), which has been declared (*see* Calcutta Gazette, 1899, Pt. I, p. 1064) to be in force in the sub-division of Angul.
			Act X of 1882 (Criminal Procedure) ;	This Act is repealed by the Code of Criminal Procedure, 1898 (V of 1898), which has been declared (*see* Calcutta Gazette, 1898, Pt. I, p. 779) to be in force in Angul.
			Act XVIII of 1883 (Cattle-trespass) ;	This Act had, before the passing of Reg. I of 1894, been repealed by the Cattle-trespass Act (1871) Amendment Act, 1891 (I of 1891), and consequently [*see* section 3 (*1*) of the Regulation] never applied to Angul though included in the Schedule to the Regulation. [Act I of 1891, which amends Act I of 1871, is in force in Angul by virtue of section 3 (*1*) of Reg. I of 1894].
			Act I of 1887 (General Clauses) ;	This Act is repealed by the General Clauses Act, 1897 (X of 1897), which has been declared (*see* Calcutta Gazette, 1899, Pt. I, p. 1064) to be in force in Angul.

THE THIRD SCHEDULE—*concld.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.	5 REMARKS.
		Part VII.—Regulations made under the Government of India Act, 1870 (33 & 34 Vict., c. 3)—concld.		
	I	The Angul District Regulation, 1894—*contd.*	So much of section 3, sub-section (*1*), and the schedule as relates to the following Acts, namely:—	
			Act XII of 1890 (Tariff);	It is unnecessary to retain this Act in this schedule. It merely amended the Indian Tariff Act, 1882 (XI of 1882), which is not itself included in the Schedule. The Act of 1882 has since been repealed by the Indian Tariff Act, 1894 (VIII of 1894), and the Act of 1890 has also been repealed (except in Angul) by the same Act.
			Bengal Act II of 1864 (Jails); and	This Act is repealed by the Prisons Act, 1894 (IX of 1894), which has been declared (*see* Calcutta Gazette, 1901, Pt. I, p. 1534) to be in force in Angul.
			Bengal Act V of 1867 (General Clauses).	This Act is repealed by the Bengal General Clauses Act, 1899 (Ben. Act I of 1899), which has been declared (*see* Calcutta Gazette, 1899, Pt. I, p. 1064) to be in force in Angul.
			In section 3, sub-section (*2*), *the words* or to have been, *the words* shall have been expressly extended thereto or, *and the word* so.	It has been ascertained that all enactments in force in the Angul District, which were expressly extended thereto before the commencement of Regulation I of 1894, have either been (1) superseded there by later enactments, or (2) included in the schedule annexed to that Regulation. The words proposed for repeal have therefore become obsolete, and their retention would be likely to raise doubts, which the Regulation was intended to avoid, as to what enactments are in force in Angul.
			Section 3, sub-section (*2*), proviso.	Validation clause. Spent.
			In column 1 of Part II of the schedule, in the entry relating to Act X of 1873 (Oaths), *the words and figures* (except the first sentence of section 16).	The insertion of these words and figures seems to have been an oversight, since section 16 of the Indian Oaths Act, 1873 (X of 1873), contains only one sentence.
1899	III	The Sonthál Parganas Justice and Laws Regulation, 1899.	In section 1, *the word* and *and* sub-section (*2*).	Commencement clause. Spent.
1900	I	The Chittagong Hill-tracts Regulation, 1900.	Section 20 . . .	Repealing clause. Spent.
"	III	The Sonthál Parganas Rural Police Regulation, 1900.	In section 1, *the words and figure* and (3) It shall come into force at once.	Commencement clause. Spent.
1901	VII	The North-West Frontier Province Law and Justice Regulation, 1901.	So much of Part I of the first Schedule as relates to section 31 of the Prisoners Act, 1900.	The amendment of Act III of 1900 proposed in Schedule II, *ante*, will render this provision in the Regulation unnecessary.

V M

STATEMENT OF OBJECTS AND REASONS.

THIS Bill has been prepared in order to lighten the Statute-book and pave the way for the publication of a new edition of the Bengal Code, *i.e.*, the compilation of local enactments in force in the Province of Bengal which is published under the orders of the Government of India.

2. Except as regards the matter mentioned hereafter in paragraphs 3 and 4, the repeals and amendments proposed are purely formal and involve nothing of substance. Each of them is explained by the remark concerning it inserted in the fifth column of the appropriate schedule—a column which will, of course, be removed before the Bill is passed. In some cases enactments in force in Provinces other than Bengal are dealt with in the schedules, and in others Acts of universal application are affected; but in genera the Bill is confined to the enactments to be included in the new edition of the Bengal Code. The opportunity has, in accordance with the later practice, been taken to give short titles to many enactments which have not so far been provided therewith.

3. The enactments passed before a Lieutenant-Governor was appointed for Bengal vested supreme executive powers in the Governor General in Council. It is considered that these powers might now, in many cases, be formally transferred to the Local Government or the Board of Revenue, and it is proposed to make this change by the present Bill. All cases in which the change is proposed are distinguished by the words "See paragraph 3 of the Statement of Objects and Reasons" inserted in column 5 of Schedules II and III.

4. The opportunity afforded by the present Bill has been taken to make three substantive amendments, namely, those appearing in Schedule II opposite the Police Act, 1861 (V of 1861), the Cantonments Act, 1889 (XIII of 1889), and the Prisoners Act, 1900 (III of 1900).

T. RALEIGH.

The 19th February, 1903.

J. M. MACPHERSON,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th February, 1903 :—

No. 5 OF 1903.

A Bill further to amend the Indian Paper Currency Act, 1882.

XX of 1882. Whereas it is expedient further to amend the Indian Paper Currency Act, 1882, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Indian Paper Currency (Amendment) Act, 1903.

Amendment of Act XX of 1882, sections 16 and 17. 2. For sections 16 and 17 of the Indian Paper Currency Act, 1882, the following shall be substituted, namely:—

Notes where legal tender. "16. A currency note for five rupees, issued from any town not situate in Burma, shall be a legal tender at any place in British India except Burma,

a currency note for five rupees, issued from any town in Burma, shall be a legal tender at any place in Burma, and

a currency note for any amount exceeding five rupees shall be a legal tender at any place within the Circle from which the note was issued,

for the amount expressed in the note, in payment or on account of—

(*a*) any revenue or other claim, to the amount of five rupees and upwards, due to the Government of India, and

(*b*) any sum of five rupees and upwards, due by the Government of India or by any body corporate or person in British India:

Provided that no currency note shall be deemed to be a legal tender by the Government of India at any office of issue.

Notes where payable. "17. (*1*) A currency note for five rupees, issued from any town not situate in Burma, shall be payable at any office of issue not situate in Burma.

(*2*) A currency note for five rupees, issued from any town in Burma, shall be payable only at an office of issue in such town.

(*3*) A currency note for any amount exceeding five rupees shall be payable only at an office of issue in the town from which it was issued:

Provided that any such currency note which was issued before the commencement of the Indian Paper Currency (Amendment) Act, 1903, from any town not situate in Burma, shall also be payable at the Presidency-town of the Presidency within which such town is situate."

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to amend sections 16 and 17 of the Indian Paper Currency Act, 1882, so as (*1*) to declare five-rupee notes, issued from any town outside Burma, to be legal tender throughout British India except Burma, (2) to authorize the encashment of such notes at any office of issue in British India except Burma, and (*3*) to withdraw, in respect of sub-circle notes of any value exceeding five rupees, issued after the Bill is passed, the permission given by clause (*b*) of section 17 of the Act to require the encashment of such notes at a Presidency-town.

2. The first two amendments are designed to facilitate an increase in the circulation of five-rupee notes, so as to admit of a larger portion of the Currency Reserve being held in gold or invested securities and to lessen the expense and inconvenience of transfers of coin from one Treasury to another.

3. The object of the third amendment is to do away with the obligation imposed on the Government by the present law of providing cash for payment of future sub-circle currency notes exceeding five rupees at the Presidency-towns as well as in the sub-circles. This obligation makes it necessary to lock up a considerable portion of the Government balances which would otherwise be available for the general encashment of notes, and it is inexpedient that it should be maintained. A clause is inserted in the Bill to preserve the obligation intact in the case of notes issued before the passing of the Bill.

E. FG. LAW.

The 19th February, 1903.

J. M. MACPHERSON,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th February, 1903 :—

NO. 6 OF 1903.

A Bill to amend the Indian Post Office Act, 1898.

VI of 1898. WHEREAS it is expedient to amend the Indian Post Office Act, 1898; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Post Office (Amendment) Act, 1903.

Addition to Act VI of 1898, section 2, clause (*b*). **2.** At the end of clause *(b)* of section **2** of the Indian Post Office Act, 1898, the following shall be added, namely:—

"Provided that the expression 'inland' shall not apply to any class of postal articles which may be specified in this behalf by the Governor General in Council by notification in the Gazette of India, when posted in or at or addressed to any places or post offices which may be described in such notification."

STATEMENT OF OBJECTS AND REASONS.

ALL classes of postal articles exchanged between post offices in British India and Indian post offices established in Persia and Turkish Arabia are subject, under the Indian Post Office Act, 1898 (VI of 1898), to inland rules and rates of postage. It has, however, been decided that the Union rules and rates of postage should be made applicable to articles of private correspondence exchanged between British Indian post offices and Indian post offices in Persia and Turkish Arabia, or between Indian post offices in those countries; and the object of this Bill is to enact a clause which will enable the Governor General in Council to give effect to this decision by notification in the Gazette of India.

E. FG. LAW.

The 18th February, 1903.

J. M. MACPHERSON,
Secretary to the Government of India.

V N.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MARCH 19, 1903.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 6th March, 1903, and is hereby promulgated for general information :—

ACT NO. I OF 1903.

An Act to facilitate the citation of certain enactments, to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient to facilitate the citation of the enactments specified in the first schedule to this Act ;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

And whereas it is also expedient that certain enactments specified in the third schedule to this Act, which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Repealing and Amending Act, 1903.

Citation of certain enactments.

2. Each of the enactments described in the first three columns of the first schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Amendment of certain enactments.

3. The enactments specified in the second schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Repeal of certain enactments.

4. The enactments specified in the third schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Savings.

5. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

SHORT TITLES.

(*See section 2.*)

1	2	3	4
Year.	No.	Title or subject.	Short title.
		Part I.—Regulations of the Bengal Code.	
1793	XIX	A Regulation for re-enacting, with modifications, the rules passed by the Governor General in Council on the 1st December, 1790, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed bádsháhi or royal; and for determining the amount of the annual assessment to be imposed on lands so held which may be adjudged or become liable to the payment of public revenue.	The Bengal Revenue-free Lands (Non-Bádsháhi Grants) Regulation, 1793.
"	XXXVII	A Regulation for re-enacting, with modifications, the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold Altámgha, jágir and other lands exempt from the payment of public revenue, under grants termed bádsháhi or royal; and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid.	The Bengal Revenue-free Lands (Bádsháhi Grants) Regulation 1793.
1794	III	A Regulation for prescribing the process by which Táhsildárs are to demand payment of arrears; and for enabling the Collectors to recover from Native officers employed under them public money or papers which they may embezzle or retain.	The Bengal Native Revenue-officers Regulation 1794.
1795	I	A Regulation for fixing in perpetuity the revenue assessed on the lands in the Province of Benares; for the more general restoration of the ancient zamindars.	The Benares Permanent Settlement Regulation, 1795.
"	XV	A Regulation for referring certain cases to the decision of the Raja of Benares.	The Benares Family Domains Regulation, 1795.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		***Part I.—Regulations of the Bengal Code*—contd.**	
1795	XXVII	A Regulation declaratory of certain reservations made by Government, and of rights preserved to the proprietors of landed estates, under the Permanent Settlement of the land-revenue made in the Province of Benares; for allowing of the transfer or division of entire estates or portions of estates; and prescribing rules for apportioning the fixed jama on the several shares of estates which may be divided, or portions of estates which may be transferred.	The Benares Permanent Settlement (Supplemental) Regulation 1795.
"	XLIV	A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan Laws with regard to the inheritance of landed property subject to the payment of revenue to Government in the Province of Benares.	The Benares Inheritance Regulation, 1795.
1798	I	A Regulation to prevent fraud and injustice in conditional sales of land under deeds of bai-bil-wafa or other deeds of the same nature.	The Bengal Land (Conditional Sales) Regulation, 1798.
1800	VIII	A Regulation for registers of estates paying revenue, and lands held exempt from the payment of revenue.	The Bengal Revenue-free Lands Regulation, 1800.
1801	I	A Regulation to explain and amend the rules for the division of joint estates and allotment of the fixed assessment thereupon.	The Bengal Land-revenue Assessment Regulation, 1801.
1803	XXXIII	A Regulation for preventing the embezzlement of public money and the withholding of public papers by the Native officers of Government in the Provinces ceded by the Nawab Wazir to the Hon'ble the English East India Company.	The United Provinces Native Revenue-officers Regulation, 1803.
1805	XII	A Regulation for the settlement and collection of the public revenue in the Zila of Cuttack, including the Parganas of Pataspur, Kamardáchor and Bográí, at present included in the Zila of Midnapore.	The Cuttack Land-revenue Regulation, 1805.
	XIII	A Regulation for the maintenance of the peace and for the support and administration of the Police in the Zila of Cuttack, and for amending certain provisions contained in Regulation IV, 1804.	The Cuttack Police Regulation, 1805.

THE FIRST SCHEDULE—*contd.*

1 Year.	2 No.	3 Title or subject.	4 Short title.
		Part I.—Regulations of the Bengal Code—contd.	
1806	XVII	A Regulation for extending to the Province of Benares the rates of interest on future loans, and provisions relative thereto, contained in Regulation XV, 1793; also for a general extension of the period fixed by Regulations I, 1798, and XXXIV, 1803, for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafa, kat-kábala or other similar designation.	The Bengal Land (Redemption and Foreclosure) Regulation, 1806.
1810	XIX	A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges and other purposes; for the maintenance and repair of bridges, saráis, kattras and other public buildings; and for the custody and disposal of nazúl property or escheats.	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.
1812	V	A Regulation for amending some of the rules at present in force for the collection of the land-revenue.	The Bengal Land-revenue Sales Regulation, 1812.
"	XVIII	A Regulation for explaining section 2, Regulation V, 1812, and rescinding sections 3 and 4, Regulation XLIV, 1793, and sections 3 and 4, Regulation L, 1795, and enacting other rules in lieu thereof.	The Bengal Leases and Land-revenue Regulation, 1812.
1814	XXIX	A Regulation for the settlement of certain mahále in the district of Birbhum, usually denominated the Ghatwáli mahále.	The Bengal Ghatwáli Lands Regulation, 1814.
1816	V	A Regulation for establishing the office of Kánúngo in the district of Cuttack, the pargana of Patáspur, and the several parganas dependent on it.	The Bengal Kánúngos Regulation, 1816.
"	IX	A Regulation for the appointment of a Commissioner of Revenue within that portion of the districts of the 24-Parganas, Nadia, Jessore and Backergunge commonly denominated the Sundarbans.	The Sundarbans Regulation, 1816.
1817	XII	A Regulation for securing the better administration of the office of Patwári in the Ceded and Conquered Provinces, the Provinces of Behar and Benares, the district of Cuttack, the pargana of Patáspur and its dependencies.	The Bengal Patwáris Regulation, 1817.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		Part I.—Regulations of the Bengal Code—contd.	
1817	XX	A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of dároghas and other subordinate officers of police.	The Bengal Police Regulation, 1817.
1819	I	A Regulation for re-establishing Kánúngos and reforming the office of Patwári throughout the Province of Bengal; and for explaining and modifying certain parts of Regulation XII, 1817.	The Bengal Kánúngos and Patwáris Regulation, 1819.
"	II	A Regulation for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made.	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819.
1821	IV	A Regulation for explaining the duties of an Assistant Collector of Revenue, and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of parganas or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land-revenue.	The Bengal Land-revenue (Assistant Collectors) Regulation, 1821.
1822	III	A Regulation for modifying the constitution and altering the jurisdiction of the several Boards vested with the superintendence of the land-revenue in the territories belonging to the Presidency of Fort William.	The Bengal Board of Revenue Regulation, 1822.
"	VII	A Regulation for declaring the principles according to which the settlement of the land-revenue in the Ceded and Conquered Provinces, including Cuttack, Patáspur and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending settlements; for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue-authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.	The Bengal Land-revenue Settlement Regulation, 1822.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		Part I.—Regulations of the Bengal Code—contd.	
1822	XI	A Regulation for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice; and for making further provision for the conduct of the Revenue-officers in certain cases.	The Bengal Government Indemnity Regulation, 1822.
1823	VI	A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo-plant, and for declaring certain principles in regard to the same.	The Bengal Indigo Contracts Regulation, 1823.
1825	IX	A Regulation for extending the operation of Regulation VII, 1822; for authorizing the Revenue-authorities to let in farm estates under temporary leases, on the default of the málguzárs, or to hold the same khás for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations.	The Bengal Land-revenue Settlement Regulation, 1825.
,,	XIII	A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by Kánúngos in the Province of Behar; and to provide for the future settlement of such lands, as well as of the lands composing other resumed lákhiráj tenures, with the present occupants, when so directed by Government.	The Bengal Land-revenue Settlement (Resumed Kanungos' and Revenue-free Lands) Regulation, 1825.
,,	XIV	A Regulation to declare the extent of the authority possessed by the Revenue-authorities, subordinate to the Governor General in Council, in the confirmation of lákhiráj tenures; to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government; and to provide for the due application of the general laws and regulations respecting lands held free of assessment to the territory ceded by Govind Ráo to the British Government, and annexed to the zila of Bundelkhand, under the provisions of Regulation II, 1818.	The Bengal Revenue-free Lands Regulation, 1825.

THE FIRST SCHEDULE—*contd*

1 Year.	2 No.	3 Title or subject.	4 Short title.
		***Part I.—Regulations of the Bengal Code*—concld.**	
1828	III	A Regulation for the appointment of Special Commissioners for the more speedy hearing and determination of appeals from the decisions of the Revenue-authorities in regard to lands or rents occupied or collected by individuals, without payment of the revenue demandable by Government, under the general law of the country; and for otherwise more effectually securing the realisation of the public dues.	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828.
"	IV	A Regulation to declare and extend the powers to be exercised by Collectors when making or revising settlements under the provisions of Regulation VII, 1822.	The Bengal Land-revenue Settlement Regulation, 1828.
"	VII	A Regulation for amending the provisions of Regulation XV, 1795, and for defining the authority of the Raja of Benares in the Mahals therein referred to.	The Benares Family Domains Regulation, 1828.
1829	I	A Regulation for constituting Commissioners of Revenue and Circuit; for establishing a Sadr Board of Revenue; for modifying the constitution of the Provincial Courts; for transferring to the said Commissioners the functions now exercised by the Superintendents of Police and those of the mufassal special Commissioners acting under the provisions of Regulation I, 1821; and otherwise for providing for the better administration of Civil and Criminal Justice.	The Bengal Revenue Commissioners Regulation, 1829.
1830	V	A Regulation relating to the cultivation and delivery of Indigo-plant.	The Bengal Indigo Contracts Regulation, 1830.
1833	IX	A Regulation to modify certain portions of Regulation VII of 1822 and Regulation IV of 1828; to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in making settlements under the above Regulations; for enforcing the production of the village-accounts; for the more extensive employment of Native agency in the Revenue Department; and to declare the intent of section 5, Regulation VII of 1822, touching claims to málikána.	The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		Part II.—Acts of the Governor General in Council.	
1836	X	Indigo Contracts . .	The Bengal Indigo Contracts Act, 1836.
"	XXI	Districts	The Bengal Districts Act, 1836.
1841	XII	An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.	The Bengal Land-revenue Sales Act, 1841.
1847	IX	An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Behar and Orissa.	The Bengal Alluvion and Diluvion Act, 1847.
1848	XX	An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency.	The Bengal Landholders' Attendance Act, 1848.
1850	XXIII	An Act for securing the Land-revenue of Calcutta.	The Calcutta Land-revenue Act, 1850.
"	XLIV	An Act for consolidating the Board of Customs, Salt and Opium and the Sadr Board of Revenue in the Lower Provinces of Bengal.	The Bengal Board of Revenue Act, 1850.
1855	XXXII	An Act relating to Embankments.	The Bengal Embankment Act, 1855.
"	XXXVII	An Act to remove from the operation of the General Laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.	The Sonthal Parganas Act, 1855.
1856	XVIII	An Act relating to the administration of the public-revenues in the Town of Calcutta.	The Calcutta Land-revenue Act, 1856.
"	XX	An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal.	The Bengal Chaukidari Act, 1856.
"	XXII	An Act for establishing a toll on boats and timber passing through the Karatoyá river in the district of Bogra.	The Karatoyá Tolls Act, 1856.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		Part II.—Acts of the Governor General in Council—contd.	
1857	X	An Act to amend Act XXXVII of 1855.	The Sonthal Parganas Act, 1857.
"	XIII	An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.	The Opium Act, 1857.
"	XXI	An Act to make better provision for the order and good government of the station of Howrah.	The Howrah Offences Act, 1857.
1858	XXXI	An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.	The Bengal Alluvial Land Settlement Act, 1858.
1859	V	An Act to empower the holders of ghátwáli lands in the district of Birbhum to grant leases extending beyond the period of their own possession.	The Bengal Ghátwáli Lands Act, 1859.
"	X	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The Bengal Rent Act, 1859.
"	XI	An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.	The Bengal Land-revenue Sales Act, 1859.
"	XII	An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.	The Calcutta Pilots Act, 1859.
1867	XIX	An Act to make further provision for the administration of Justice in the district of Darjeeling.	The Darjeeling (High Court's Jurisdiction) Act, 1867.
"	XXIII	An Act for the suppression of murderous outrages in certain districts of the Punjab.	The Punjab Murderous Outrages Act, 1867.
1871	XXII	An Act to authorise the extension of the Chaukidari Act to places where there is no Jamadar of Police.	The Bengal Chaukidari (Amendment) Act, 1871.
1876	VII	An Act to extend the Criminal Tribes Act, 1871, to the Lower Provinces of Bengal, and to amend the same Act.	The Criminal Tribes (Amendment) Act, 1876.
1877	IX	An Act to revive and amend Act No. XXIII of 1867.	The Punjab Murderous Outrages (Amendment) Act, 1877.
1878	XII	An Act for the further amendment of the Punjab Laws Act, 1872.	The Punjab Laws (Amendment) Act, 1878.
1881	VII	An Act to amend Bengal Act No. IX of 1880 (the Cess Act, 1880).	The Bengal Cess (Amendment No. 1) Act, 1881.

THE FIRST SCHEDULE—*contd.*

1 Year.	2 No.	3 Title or subject.	4 Short title.
		***Part II.—Acts of the Governor General in Council*—concld.**	
1883	VI	An Act to give power to arrest persons whose evidence is needed under Act XII of 1859.	The Calcutta Pilots (Amendment) Act, 1883.
1884	V	An Act to amend the Chota Nagpur Encumbered Estates Act, 1876.	The Chota Nagpur Encumbered Estates (Amendment) Act, 1884.
1886	VIII	An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.	The Bengal Tenancy (Amendment) Act, 1886.
1895	XIX	An Act to amend the Punjab Courts Act, 1884.	The Punjab Courts (Amendment) Act, 1895.
1896	XVII	An Act to amend the Punjab Land-revenue Act, 1887.	The Punjab Land-revenue (Amendment) Act, 1896.
,,	XVIII	An Act to amend the Punjab Municipal Act, 1891.	The Punjab Municipal (Amendment) Act, 1896.
		Part III.—Bengal Acts.	
1862	III	An Act to amend Act XI of 1859 (to improve the law relating to sales of land for Arrears of Revenue in the Lower Provinces under the Bengal Presidency).	The Bengal Land-revenue Sales (Amendment) Act, 1862.
,,	VI	An Act to amend Act X of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal).	The Bengal Rent Act, 1862.
,,	VII	An Act to repeal section 30 of Regulation II, 1819 (for modifying the provisions contained in the existing Regulations regarding the Resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made).	The Bengal Land-revenue Resumption Act, 1862.
,,	VIII	An Act to improve the system of Zamindári Dâks in the Provinces subject to the Government of Bengal.	The Bengal Zamindári Dâk Act, 1862.
1863	II	An Act to abate and prevent nuisances arising from the smoke of furnaces in the Town and Suburbs of Calcutta.	The Calcutta and Howrah Smoke Nuisances Act, 1863.
1864	IV	An Act to amend Act XXI of 1836.	The Bengal Districts Act, 1864.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		Part III.—Bengal Acts— contd.	
1865	IV	An Act for the prohibition of the practice of inoculation in the Town and Suburbs of Calcutta and in towns to which Act III of 1864, passed by the Lieutenant-Governor of Bengal in Council, has been or shall hereafter be extended.	The Bengal Prevention of Inoculation Act, 1865.
"	VII	An Act to make provision for the better regulation and supervision of Public Slaughter-houses in the Suburbs of Calcutta, and for the adoption of proper conservancy arrangements connected therewith.	The Bengal Municipal (Slaughter-houses and Meat-markets) Act, 1865.
"	VIII	An Act to amend the law for the sale of such under-tenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.	The Bengal Rent Recovery (Under-tenures) Act, 1865.
1866	II	An Act to provide for the better regulation of the Police within the suburbs of the town of Calcutta.	The Calcutta Suburban Police Act, 1866.
"	III	An Act to provide for the attendance and examination of witnesses before the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations.	The Bengal Legislative Council (Witnesses) Act, 1866.
"	VII	An Act to make better provision for the acquisition of land for embankments, and other matters relating thereto.	The Bengal Embankment Act, 1866.
1867	II	An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal.	The Bengal Public Gambling Act, 1867.
"	III	An Act to amend the law relating to ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal.	The Bengal Ports Act, 1867.
"	IV	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The Bengal Rent (Appeals) Act, 1867.
1868	III	An Act to amend the law respecting appeals in cases under Regulation VII of 1822.	The Bengal Land-revenue Settlement Act, 1868.

THE FIRST SCHEDULE—*contd.*

1 Year.	2 No.	3 Title or subject.	4 Short title.
		Part III.—Bengal Acts—contd.	
1868	IV	An Act to amend the provisions of Act IX of 1847 (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Behar and Orissa).	The Bengal Alluvion (Amendment) Act, 1868.
"	VII	An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue.	The Bengal Land-revenue Sales Act, 1868.
1869	I	An Act for the Prevention of Cruelty to Animals.	The Bengal Cruelty to Animals Act, 1869.
"	III	An Act to enable Police-officers to arrest without warrant persons guilty of Cruelty to Animals.	The Bengal Cruelty to Animals (Arrest) Act, 1869.
"	VII	An Act to amend the constitution of the Police-force in Bengal.	The Bengal Police Act, 1869.
1871	I	An Act to amend the Village Chaukidári Act, 1870.	The Bengal Village Chaukidári Act, 1871.
"	II	An Act to amend the procedure for the recovery of arrears of land-revenue in respect of tenures not being estates.	The Bengal Land-revenue Sales (Amendment) Act, 1871.
1873	I	An Act to amend the Salt Act, 1864.	The Bengal Salt Act, 1873
"	IV	An Act for registering Births and Deaths.	The Bengal Births and Deaths Registration Act, 1873.
1876	I	An Act to provide for the voluntary Registration of Muhammadan Marriages and Divorces.	The Bengal Muhammadan Marriages and Divorces Registration Act, 1876.
"	II	An Act to amend Act XI of 1849, Act XXI of 1856 and Act IV (B.C.) of 1866.	The Calcutta Police (Amendment) Act, 1876.
1878	V	An Act to amend Bengal Act VII of 1876.	The Bengal Land Registration (Amendment) Act, 1878.
1879	I	An Act to amend and extend the Puri Lodging-house Act, 1871.	The Puri Lodging-house (Extension) Act, 1879.
"	III	An Act to provide for the periodical inspection of Steam-boilers and Prime-movers attached thereto in the Town and Suburbs of Calcutta and in Howrah.	The Bengal Steam-boilers and Prime-movers Act, 1879.
"	VIII	An Act to define and limit the powers of Settlement-officers.	The Bengal Rent Settlement Act, 1879.

THE FIRST SCHEDULE—*contd.*

1 Year.	2 No.	3 Title or subject.	4 Short title.
		Part III.—Bengal Acts—contd.	
1880	III	An Act to amend the Howrah Bridge Act, 1871.	The Howrah Bridge Act, 1880.
1881	II	An Act to amend the Cess Act, 1880.	The Bengal Cess (Amendment No. 2) Act, 1881.
"	III	An Act to amend the Court of Wards Act, 1879.	The Bengal Court of Wards (Amendment) Act, 1881.
1883	I	An Act to amend the Bengal Excise Act, 1878.	The Bengal Excise (Amendment) Act, 1883.
"	V	An Act for the Registration and Control of Porters and Dandeewallas in the Darjeeling and Kurseong Municipalities.	The Darjeeling and Kurseong Municipal (Porters) Act, 1883.
1884	I	An Act further to amend Bengal Act IV of 1871.	The Puri Lodging-house (Extension) Act, 1884.
"	II	An Act to amend the Calcutta Tramways Act, 1880.	The Calcutta Tramways (Amendment) Act, 1884.
1886	I	An Act to further amend the Village Chaukidári Act, 1870.	The Bengal Village Chaukidári (Amendment) Act, 1886.
"	II	An Act to amend Act II (B.C.) of 1866, and the Calcutta Police Act, 1866.	The Calcutta and Suburban Police (Amendment) Act, 1886.
"	III	An Act to amend Act III (B.C.) of 1884.	The Bengal Municipal (Amendment) Act, 1886.
1887	II	An Act to amend Bengal Act V of 1880.	The Bengal Vaccination (Amendment) Act, 1887.
1889	IV	An Act to provide for the appointment of a Muhammadan Burial Board in Calcutta, and to make better provision for the interment of persons other than Christians or Muhammadans.	The Calcutta Burial Boards Act, 1889.
1890	I	An Act to consolidate the Calcutta and the Suburban Police Superannuation Funds.	The Calcutta and Suburban Police (Superannuation Fund) Act, 1890.
"	II	An Act to amend the Bengal Vaccination Act, 1880.	The Bengal Vaccination (Amendment) Act, 1890.
1892	I	An Act to further amend the Village Chaukidári Act, 1870.	The Bengal Village Chaukidári (Amendment) Act, 1892.
1894	II	An Act to amend the Calcutta Port Act, 1890.	The Calcutta Port (Amendment) Act, 1894.
"	IV	An Act to amend the Bengal Municipal Act, 1884.	The Bengal Municipal (Amendment) Act, 1894.
1895	II	An Act to further amend the Suburban Police Act, 1866, and the Calcutta Police Act, 1866.	The Calcutta and Suburban Police (Amendment) Act, 1895.
"	IV	An Act to further amend the Calcutta Port Act, 1890.	The Calcutta Port (Amendment No. 1) Act, 1895

THE FIRST SCHEDULE—*concld.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		Part III.—Bengal Acts—concld.	
1895	VI	An Act to further amend the Calcutta Port Act, 1890.	The Calcutta Port (Amendment No. 2) Act, 1895.
1896	II	An Act to further amend the Bengal Municipal Act, 1884.	The Bengal Municipal (Amendment) Act, 1896.
1897	I	An Act to amend the Public Demands Recovery Act, 1895.	The Bengal Public Demands Recovery (Amendment) Act, 1897.
1899	II	An Act to repeal the Civil Courts Amins Act, 1856, in Bengal.	The Bengal Civil Court Amins Act, 1899.

THE SECOND SCHEDULE.

AMENDMENTS.

(*See section 3.*)

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
		Part I.—Regulations of the Bengal Code.	
1793	II	The Bengal Land-revenue Regulation, 1793.	In section 18, *after* Collector *insert* or. In sections 36, 38, 39, 40, 42, 43 and 45, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.* In section 40, *the word* his *shall be read as if the word* its *were substituted therefor.* In section 45, *the word* him *shall be read as if the word* it *were substituted therefor.*
"	VIII	The Bengal Decennial Settlement Regulation, 1793.	In section 20, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.* In section 21, *the word* Government *shall be read as if the words* the Local Government *were substituted therefor.*
"	XIX	Revenue-free Lands (Non-Bádsháhi Grants).	In sections 2, 3, 8 and 15, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.* In section 2, clause *Fourth, the word* him *shall be read as if the word* it *were substituted therefor.* In section 10, *the words* Governor General in Council *shall be read as if the words* Governor General in Council or the Local Government *were substituted therefor.* In section 15, *the word* him, *where it last occurs, shall be read as if the word* it *were substituted therefor.*
"	XXXVII	Revenue-free Lands (Bádsháhi Grants).	In sections, 2, 3, 5 and 10, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.* In section 10, *the word* him, *where it last occurs, shall be read as if the word* it *were substituted therefor.*
1799	V	The Bengal Wills and Intestacy Regulation, 1799.	In section 7, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor, and the word* his, *where it last occurs, shall be read as if the word* its *were substituted therefor.*
1805	XII	Land-revenue, Cuttack .	In sections 18, 20, 26, 28 and 30, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.* In section 18, clause *Third, the word* himself *shall be read as if the word* itself *were substituted therefor.* In section 18, clause *Fifth, the word* him *shall be read as if the word* it *were substituted therefor.* In section 22, *for* through the Board of Revenue for the information of the Governor General in Council *substitute* to the Board of Revenue.

THE SECOND SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Amendments.
			***Part I.—Regulations of the Bengal Code*—contd.**
1805	XIII	Police, Cuttack . .	In section 3, *the words* the Governor General in Council, by an order in Council, *shall be read as if the words* the Local Government, by notification in the Calcutta Gazette, *were substituted therefor.*
			In section 4, clause *Fourth, the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*
1810	XIX	Charitable Endowments, Public Buildings and Escheats.	In section 3, *for* those Boards *substitute* the Board of Revenue.
			In section 4, *for* Boards *substitute* Board.
			In section 8, *for* those Boards respectively *substitute* the Board.
			In section 9, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*
			In section 12, *for* superior Boards *substitute* Board of Revenue, *and for* Boards *substitute* Board.
			In section 13, *for* superior Board *substitute* Board of Revenue.
1812	V	Land-revenue Sales .	In section 25, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*
"	XI	The Bengal Foreign Immigrants Regulation, 1812.	At the end of section 5, *for* the said Regulation *substitute* this Regulation.
1814	XXIX	Ghatwáli Lands . .	In section 5, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.*
1816	V	Kánúngos . .	In sections 5 and 11, *the words* Governor General in Council *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.*
"	IX	Sundarbans . . .	In section 2, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*
			In the same section, *for* Regulations *substitute* Laws.
1817	XII	Patwáris . . .	In section 18, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*
1819	I	Kánúngos and Patwáris	In section 4, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.*
			In section 4, clause *Third, the word* he *shall be read as if the word* it *were substituted therefor.*
"	II	Land-revenue Assessment (Resumed Lands).	In section 13, clause *Third,* and in section 14, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*
			In section 21, clause *Second, for* Boards *substitute* Board.
"	VIII	The Bengal Patni Taluqs Regulation, 1819.	In section 9, and in section 14, clause *Second, for* notes of the Bank of Bengal *substitute* currency notes.
1820	I	The Bengal Patni Taluqs Regulation, 1820.	In section 2, *for* the general Regulations *substitute* Law.
1821	IV	Land-revenue (Assistant Collectors).	In section 7, *for* by the Regulations *substitute* by law, *and for* the Regulations already in force *substitute* the law for the time being in force.
			In section 8, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.*
			In section 8, clause *Fifth, for* by the Regulations *substitute* by the laws, *and for* to the Regulations *substitute* to law.

THE SECOND SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Amendments.
			***Part I.—Regulations of the Bengal Code*—contd.**
1822	III	Board of Revenue . .	In the title, *for the words from* and altering *to the end, substitute* of the Board of Revenue, and for controlling the distribution of powers between the members of the Board.
			In section 4, clause *First*, *for* The said Boards shall each of them *substitute* The Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal shall.
			In section 5, clause *First*, *for* any of the said Boards *substitute* the said Board.
			In section 5, second proviso and clause *Second*, *for* a Board *substitute* the Board.
			In section 5, clauses *Third* and *Sixth*, *for* Boards *substitute* Board.
"	VII	Land-revenue Settlement.	In section 2, clause *Sixth*, *for the words* as aforesaid, *where they first occur*, *substitute* acknowledged as the proprietor or possessor of a permanent interest in the mahal for which he has engaged.
			In section 3, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor, and the words* by an Order in Council *shall be read as if the words* by notification in the local official Gazette *were substituted therefor.*
			In section 5, section 6, clause *Second*, section 7, clause *First*, section 8, section 9, clause *Third*, section 10 clauses *First* and *Third*, and sections 16, 17, and 32, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor*; and in section 35, *the words* Governor General in Council, *in the second place where they occur, shall be read as if the words* Local Government *were substituted therefor.*
			In section 9, clause *Third*, *for* Boards *substitute* Board, *and for* such a Board *substitute* that Board.
			In section 10, clause *Ninth*, section 16, proviso, and section 32, *for the word* Boards, *wherever it occurs*, *substitute* Board.
			In section 13, *for* Regulation *substitute* law.
			In section 20, clause *First*, *the words* the Government by an Order in Council *shall be read as if the words* the Local Government by notification in the local official Gazette *were substituted therefor*, *the word* he *shall be read as if the word* it *were substituted therefor*, *and the word* Government *shall be read as if the words* the Local Government *were substituted therefor.*
			In section 20 clause *Second*, *the words* Governor General in Council *and the words* Governor General *shall be read as if the words* Local Government *were substituted therefor*, *and the words* by an Order in Council *shall be read as if the words* by notification in the local official Gazette *were substituted therefor.*
			In section 23, clause *First*, *for* other Regulation *substitute* other law.
			In section 24, clause *Second*, *for* the existing Regulations *substitute* any other law.
			In section 26, *for* such suits *substitute* suits the cognizance of which is hereby vested in Collectors.
1825	IX	Land-revenue Settlement	In section 3, section 4, section 5, clause *Eighth*, section 6 and section 8, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.*
			In section 3, *after* Behar *insert* or.
			In section 6, *the words* an Order in Council *shall be read as if the words* notification in the local official Gazette *were substituted therefor.*
			In section 8, *for the words* rules respectively *substitute* section.

THE SECOND SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Amendments.
		Part I.—Regulations of the Bengal Code—concld.	
1825	XIII	Land-revenue Settlement	In sections 2 and 5, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.*
			In the first paragraph of section 2, *the word* he *shall be read as if the word* it *were substituted therefor.*
			In section 3, *for* Regulations *substitute* law.
"	XIV	Revenue-free Lands .	In section 1 and section 3, clause *Fifth*, *for* Regulations VIII and *substitute* Regulation.
			In sections 2 and 3, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor.*
			In section 3, clause *Fifth*, *the word* his, *where it last occurs, shall be read as if the word* its *were substituted therefor.*
			In section 6, *for* Revenue Boards *substitute* Board of Revenue, *and for* these Boards *substitute* that Board.
1827	III	The Bengal Corruption and Extortion Regulation, 1827.	In section 5, *for* a Court of Circuit or the Nizamat Adalat *substitute* the Court.
"	V	The Bengal Attached Estates Management Regulation, 1827.	In section 3, *for* several Regulations *substitute* Regulation.
1828	III	Land-revenue Assessment (Resumed Lands).	In section 10, clauses *Second* and *Third*, *for* Boards *substitute* the Board.
			In section 13, clause *First*, *the words* Governor General in Council *and the word* he *shall be read as if the words* Local Government *and the word* it *were respectively substituted therefor.*
"	IV	Land-revenue Settlement.	In section 2, clause *Fourth*, *for* aforesaid *substitute* vested with the powers of a Collector.
1833	IX	Land-revenue (Settlement and Deputy Collectors).	In the title, *for* Regulations *substitute* Regulation, and, in section 1 *for* those Regulations *substitute* that Regulation.
			In sections 12 and 13, *for* Boards *substitute* Board.
			In section 16, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor.*
		Part II.—Acts of the Governor General in Council.	
1836	XXI	Districts . . .	*The words* the Governor General in Council by an Order in Council *shall be read as if the words* the Local Government, with the previous sanction of the Governor General in Council, by notification in the local official Gazette *were substituted therefor.*
1859	X	Rent	In sections 136 and 151, *for* Boards *susbtitute* Board.
"	XI	Land-revenue Sales .	In section 22, *after* post-bills *insert* currency notes.
			In section 32, *for* section 25 *substitute* section 2 of the Bengal Land-revenue Sales Act, 1868.
			In section 33, *for* section 25 of this Act *substitute* section 2 of the Bengal Land-revenue Sales Act, 1868.
"	XII	Calcutta Pilots . .	In sections 2 and 18, *for the words* Superintendent of Marine, *wherever they occur, substitute* Port Officer.
1861	V	The Police Act, 1861 .	In section 34, *after* imprisonment *insert* with or without hard labour.

THE SECOND SCHEDULE—*contd.*

1 Year	2 No.	3 Subject or short title.	4 Amendments.
			Part II.—Acts of the Governor General in Council—contd.
1867	III	The Public Gambling Act, 1867.	In the title, *for* the Central Provinces and British Burma *substitute* and the Central Provinces.
			In the preamble, *for* of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma, *substitute* and of the Chief Commissioner of the Central Provinces.
			In section 1, *for the definitions of* Lieutenant-Governor *and* Chief Commissioner *substitute the following, namely* :—
			"Lieutenant-Governor" means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be :
			"Chief Commissioner" means the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be.
1872	XV	The Indian Christian Marriage Act, 1872.	In section 82, *for* certificates of marriages, *and also for* marriage certificates, *substitute* certificates for marriage.
			In Schedule II, *after* declaration *insert* or oath.
1878	XII	Laws, Punjab (amending Act IV of 1872).	In section 2, *for* 18 *substitute* 16.
1879	XIV	The Hackney Carriage Act, 1879.	In section 3, *for* The Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma, *substitute* The Lieutenant-Governors of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioner of the Central Provinces.
"	XVIII	The Legal Practitioners Act, 1879.	In section 42 (added by the Legal Practitioners Act, 1884, section 9), *before the words and figures* Act I of 1846 *insert* So much of Chapter VI of Bombay Regulation II of 1827 as has not been repealed.
1881	XIII	The Fort William Act, 1881.	In section 1, *for* Army Discipline and Regulation Act, 1879, *substitute* Army Act.
			In section 5, *for* Presidency Magistrates Act, 1877, *substitute* Code of Criminal Procedure, 1898; *and for* the High Courts Criminal Procedure Act, 1875, section 147, *substitute* section 526 of that Code.
			In section 7, *for* Magistrates appointed under the Presidency Magistrates Act, 1877, *substitute* Presidency Magistrates.
1889	V	The Coroners (Madras) Act, 1889.	In the preamble, and in section 4, sub-section (*2*), as amended by the Repealing and Amending Act, 1891, *for* the Code of Criminal Procedure, 1882, *substitute* the Code of Criminal Procedure, 1898.
"	XIII	The Cantonments Act, 1889.	In section 6, sub-section (*1*), *for* in the case of a cantonment for which such a committee has not been constituted, *substitute* where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened, then, subject to any rules made under section 26, clause (*5*).
1897	X	The General Clauses Act, 1897.	In section 3, clauses (*5*), (*6*), (*30*) and (*35*), *after* under *insert* the Indian Councils Act, 1861, or.
			In section 3, *after clause* (*8*), *insert the following* :—
			(*8a*) "Burma Act" shall mean an Act made by the Lieutenant-Governor of Burma in Council under the Indian Councils Acts, 1861 and 1892 :.
			In section 3, *after clause* (*44*), *insert the following* :—
			(*44a*) "Punjab Act" shall mean an Act made by the Lieutenant Governor of the Punjab in Council under the Indian Councils Acts, 1861 and 1892 :.

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
			***Part II.—Acts of the Governor General in Council*—concld.**
1897	X	The General Clauses Act, 1897—*contd.*	In section 3, *after clause (55), insert the following :—* *(55a)* "United Provinces Act" shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892 :. In section 20, *before the word* order, *in each of the places in which it occurs, insert* notification. In section 21, *for* make *substitute* issue notifications, *between the words* any *and* orders *insert* notifications, *and for* made *substitute* issued. In section 24, *before the word* order, *in each of the places in which it occurs, insert* appointment, notification; *and before the word* issued *in each of the places in which it occurs, insert* made or.
1898	V	The Code of Criminal Procedure, 1898.	In section 260, sub-section (*1*), clause (*i*), *after* 451 *insert* 453, 454. In section 555 *for* 553 *substitute* 554. In the second schedule, column 5, against section 195, *for* Bailable *substitute* Not bailable. In the second schedule, column 8, against section 506, *for* Ditto *substitute* Presidency Magistrate or Magistrate of the first or second class. In the heading to the fifth schedule, *for* 554 *substitute* 555. In the fifth schedule, Form IV, *for* within days from this date *substitute* on the day of . In the fifth schedule, Forms XIII and XIV, *for the passage from* comply *where it occurs for the second time to* released, *substitute* be lawfully ordered to be released.
1900	III	The Prisoners Act, 1900.	For section 29 *substitute the following :—* 29. (*1*) The Governor General in Council may, by general or special order, provide for the removal of any prisoner confined in a prison— [Removal of prisoners.] (*a*) under sentence of death, or (*b*) under, or in lieu of, a sentence of imprisonment or transportation, or (*c*) in default of payment of a fine, or (*d*) in default of giving security for keeping the peace or for maintaining good behaviour, to any other prison in British India. (*2*) The Local Government, and (subject to its orders and under its control) the Inspector-General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province.
			Part III.—Bengal Acts.
1862	VI	Rent	In section 14, *for* the said Act *substitute* Act X of 1859, *and for* section VII of Act I of 1846 *substitute* section 27 of the Legal Practitioners' Act, 1879.
1865	VII	Slaughter-houses and Meat-markets.	In section I, *for* the jurisdiction of the Municipal Commissioners of the Suburbs of the Town of Calcutta appointed under the provisions of Act III of 1864 passed by the Lieutenant-Governor of Bengal in Council (*the District Municipal Improvement Act*), *substitute* any limits to which this section has heretofore been, or may hereafter be, extended by notification under section 9.

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
		Part III.—Bengal Acts—concld.	
1866	IV	The Calcutta Police Act, 1866.	In section 25, *for* such officer *substitute* officer of the Police Force. In section 33, *for* the Articles of War for Her Majesty's Army or Her Majesty's Navy or for the native officers or soldiers in Her Majesty's Indian Army, *substitute* the Naval Discipline Act, the Army Act or the Indian Articles of War. In section 95, *for the words* this Act, *in the second place in which they occur, substitute* sections 64 and 67 to 70 of the Indian Penal Code and sections 386, 387 and 389 of the Code of Criminal Procedure, 1898.
1867	IV	Rent (Appeals)	In section 5, *for* the said recited Acts *substitute* the Bengal Rent Act, 1859, or the Bengal Rent Act, 1862.
1869	I	Cruelty to Animals	In section 9, *for* the said Act II of 1866 *substitute* Ben. Act II of 1866.
1876	III	The Bengal Irrigation Act, 1876.	In section 95, *for* as a demand under section 1 of the aforesaid Ben Act VII of 1868 *substitute* under the procedure provided by the Public Demands Recovery Act, 1895, for the recovery of public demands.
1880	IX	The Cess Act, 1880	In section 29, Example B, *for* rate *substitute* ratio.
1884	II	Amendment of the Calcutta Tramways Act, 1880.	In the preamble, *for the words and figures* situate within the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876, *substitute* subject to the authority of the Corporation of Calcutta. In section 3, *for the words and figures* in Calcutta but situate beyond the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876, *substitute* in those portions of Calcutta, as defined in the Calcutta Municipal Act, 1899, which are not subject to the authority of the Corporation of Calcutta, *and for the words and figures* within the local limits of the town as defined by the Calcutta Municipal Consolidation Act, 1876, *substitute* within the area subject to their autnority. In section 4, *for the words and figures* outside the limits of the town as defined by the Calcutta Municipal Consolidation Act, 1876, *substitute* outside the area subject to their authority.
1885	III	The Bengal Local Self-Government Act of 1885.	In section 45, *for* such district *substitute* any district in which this Act is in force. In the reference to section 9 of Bengal Act IX of 1880 in the second Schedule *for* 111 *substitute* 109.
1887	IV	The Chittagong Port Commissioners Act, 1887.	In section 39, clause (*b*), *for* 32 *substitute* 34.
1890	II	Vaccination (amending Bengal Act V of 1880).	In sections 2 and 3, *after* Suburbs *insert* of Calcutta.
"	III	The Calcutta Port Act, 1890.	In section 30, *for* the three next succeeding sections, *and* in section 34 *for* any of the three last preceding sections, *substitute* section 31, section 32 or section 33. In section 94, *for* vessels *substitute* vessel.
1894	IV	Municipalities	In section 34, *for* Municipality *substitute* Municipalities.
1899	I	The Bengal General Clauses Act, 1899.	In section 3, clause (*6*), *after* under *insert* the Indian Councils Act, 1861, or. In section 25, *before the word* order, *wherever it occurs, insert the word* appointment, *and before the word* issued, *wherever it occurs, insert the words* made or.

THE SECOND SCHEDULE—*concld.*

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
		Part IV.—Burma Act.	
1898		The Burma General Clauses Act, 1898.	In section 20, *before the word* order, *in each of the places in which it occurs, insert* notification. In section 21, *for* make *substitute* issue notifications, *between the words* any *and* orders *insert* notifications, *and for* made *substitute* issued. In section 24, *before the word* order, *in each of the places in which it occurs, insert* appointment, notification: *and before the word* issued, *in each of the places in which it occurs, insert* made or.
		Part V.—Regulation made under the Government of India Act, 1870 (33 & 34 Vict., c. 3).	
1874	IX	The Arakan Hill District Laws Regulation, 1874.	In the first column of the schedule, *for* II of 1857 *substitute* XI of 1857.

THE THIRD SCHEDULE

REPEALS.

(*See section 4.*)

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.
		Part I.—Regulations of the Bengal Code.	
1793	VIII	The Bengal Decennial Settlement Regulation, 1793.	In section 19, *the words and figures* as the mukarraridars mentioned in section XVIII are supposed to have done.
			Section 33.
			In section 66, *the words* or the Courts of Circuit.
"	XIX	Revenue-free Lands (Non-Bádsháhi Grants).	Sections 25 and 35.
"	XXXVII	Revenue-free Lands (Bádsháhi Grants).	In section 2 clause *Second*, *the words and figures* and proceeded in it as required by section XIV, Regulation III, 1793.
			Sections 20 and 30.
"	XXXVIII	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.	In section 2, *the words* have been made in opposition to the repeated prohibitions of Government, or which.
1794	III	Native Revenue officers	In the title, *the words* money or *and the words* embezzle or.
			In section 16, *the words* a balance of accounts, or money or, *the words* the payment of the money or, *the words* the amount of the money or, *the words* money or, *the words* discharge the money or, *the words* the sum demanded of him shall be discharged or, *and the words from* The Collector is authorised likewise to attach *to* arrears of revenue.
			In section 17, *the words* money or.
			In section 18, *the words* money or, *the words* balance or, *and the words* that no part, or a portion only, of the sum demanded was due from him, or.
			Section 19.
			In section 20, *the words and figures* and shall not obtain his release in the mode specified in section 19, *and the word* nevertheless.
1799	V	The Bengal Wills and Intestacy Regulation, 1799.	In section 2, *the words* under any Regulation relative to the jurisdiction of the Court of Wards.
			In section 3, *the words* when they are to proceed thereupon according to the general Regulations.
			In section 7, *the words* or, if the deceased were an European, in the Calcutta Gazette.
1801	I	Land-revenue Assessment	In section 8, *the words and figures from* and the patwari accounts furnished in pursuance of clause fourth of section LXII, Regulation VIII, 1793, *to* procurable by the officers of Government, *the words and figures* in pursuance of clause fourth of section LXII, Regulation VIII, 1793, or of any other Regulation, *the words* under the process prescribed in clause eighth of the above section and Regulation, *and the words and figures from* Moreover, nothing in this Regulation is meant to supersede the rules contained in section LXII, Regulation VIII, 1793, *to the end of the section.*
			In section 10, *the words* Governor General in Council or.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part I.—Regulations of the Bengal Code—contd.	
1805	XII	Land-revenue, Cuttack	In section 1, *the words from* And whereas the principles *to* confirmed.
			Sections 2 to 11.
			In section 31, *the words and figures from* and the rules contained in Regulation XXVII, 1793, *to the end.*
"	XIII	Police, Cuttack	In the title, *the words and figures* and for amending certain provisions contained in Regulation IV, 1804.
			In section 1, *the words from* And whereas it was the practice *to* general tranquillity of the country.
			Section 4, clause *Third.*
			In section 4, clause *Fourth, the words* and third.
			Sections 5, 6, 7, 10 and 11.
1810	XIX	Charitable Endowments, Public Buildings and Escheats.	In the title, *the words* mosques, Hindu temples *and the words* bridges, sarais, kattras and other.
			In section 1, *the words* mosques, Hindu temples, *the words* pious and *and the words* bridges, serais, kattras and other.
			In section 2, *the words* mosques, Hindu temples, *the words* pious and, *and the words* and Board of Commissioners in the several districts subject to the control of these Boards respectively.
			In sections 3, 5, 6 and 8, *the words* and Board of Commissioners.
			In section 7, *the words* and Board of Commissioners, respectively.
			In section 10, *the words* to whose authority those agents are respectively subject.
			In section 14, *the words* or Board of Commissioners.
			In section 15, *the words* in the mode and form prescribed by the Regulations, where Government or public officers are parties, or under the general provisions of the Regulations, if the suit be brought against a competitor or other private person.
1812	V	Land-revenue Sales	In section 26, *the words* and City.
			In section 27, *the words* or City.
"	XVIII	Leases and Land-revenue	In section 1, *the words* and Benares.
"	XXIX	Territories bordering on Bundlekhand.	So much as is unrepealed.
1814	V	Ghatwáli Lands	In section 3, *the words* with the sanction of the Governor General in Council.
1816	XXII	Kánúngos	In section 10, *the words* by the Regulations.
1817	XII	Patwáris	In the title, *the words* in the Ceded and Conquered Provinces, the Provinces of Behar and Benares, the district of Cuttack, the pargana of Patáspur and its dependencies.
			In section 1, *the words from* but, as for the full attainment *to* organization of that office, *and the words from* the in force *to* dependent on it.
			In section 23, *the words* City or.
			In sections 27 and 29, *the words* in like manner.
			In section 30, *the words* Provided further that.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part I.—Regulations of the Bengal Code—contd.	
1818	III	The Bengal State Prisoners Regulation, 1818.	In section 4, *the words* or City, *wherever they occur.*
1819	I	Kánúngos and Patwáris .	In section 4, clause *Sixth, the words* and Sylhet.
"	II	Land-revenue Assessment (Resumed Lands).	In section 3, clause *First, the words* and fifty bighas if within the Province of Benares.
"	VIII	The Bengal Patni Taluqs Regulation, 1819.	In section 17, clause *Eighth, the words* as shown by the Government Gazette last received.
1820	I	The Bengal Patni Taluqs Regulation, 1820.	In section 2, *the words* or City.
1822	VII	Land-revenue Settlement .	In the title, *the words* the Ceded and Conquered Provinces including.
			In section 1, *the words* the district of Gorakhpur, the chaklá of Azamgarh, *the words* and whereas it is also advisable to provide for the revision of the settlement of the Conquered Provinces and of the Province of Bundelkhand, pending the continuance of the existing leases, *and the words* from the date of their promulgation throughout the Ceded and Conquered Provinces.
			Section 5, clause *First*, and section 6, clause *Fourth.*
			In section 7, clause *First, the words* in the Ceded Provinces or.
			Section 7, clause *Fourth.*
			In section 7, clause *Sixth, the words* the district of Gorakhpur, the chaklá Azamgarh.
			In section 29, clause *First, the words* but no petition of appeal shall be received after the expiration of three months from the date of the decision unless sufficient cause shall be shown for the delay to the satisfaction of the Board, *and the words* Provided also that, *in both places in which they occur.*
			In section 31, clause *Second, the words* Provided also that.
			In section 33, clause *First, the word* City.
			In section 35, *the words* or Board of Commissioners.
"	XI	Government Indemnity .	Section 2.
1823	VI	Indigo Contracts . .	In section 4, clause *Second, the words* by the existing Regulations.
	VII	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.	In section 6 *the words* In like manner. Section 7.
1825	VI	The Bengal Troops Transport Regulation, 1825.	In section 2, *the word* Sicca.
			In section 4, *the words* in whose jurisdiction the district may be situate.
			In section 5, *the word* proper *and the words* by whom the case may be cognizable.
"	IX	Land-revenue Settlement .	In section 5, clause *Tenth, the words* under the provisions of the existing Regulations.
"	XI	The Bengal Alluvion and Diluvion Regulation, 1825.	In section 5, *the words* and City.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part I.—Regulations of the Bengal Code—contd.	
1825	XIV	Revenue-free Lands . .	In the title, *the words and figures* and to provide for the due application of the general laws and regulations respecting lands held free of assessment to the territory ceded by Govind Ráo to the British Government and annexed to the zila of Bundelkhand under the provisions of Regulation II, 1818.
			In section 1, *the words and figures* and it is necessary to make provision for the due application of the general rules in force relative to lákhiraj tenures to the territory ceded by Govind Ráo to the British Government and annexed to the zila of Bundelkhand under the provisions of Regulation II, 1818, *the words* a special appeal only shall lie in the Provincial Courts, and that in like manner in cases decided in the first instance by a Provincial Court, excepting cases ultimately appealable to the King in Council, *the words* on special grounds only, *the words* the above restriction should not apply to, *the words* but that such cases, *and the words and figures* Regulations XLI and XLII, 1795, Regulations XXXI and XXXVI, 1803.
			In section 2, *the words* the Lieutenant-Governor and the Board of Commissioners in the Ceded and Conquered Provinces.
			In section 3, clause *Second, the words and figures from* the 1st July, 1775, *to* 1st November, 1817.
			In section 3, clause *Fifth, the words and figures* Regulation XLII, 1795, Regulation XXXVI, 1803, and, *and the words and figures from* and with respect to the territory *to* territory referred to.
			In section 3, clause *Seventh, the words and figures from* for Benares *to* 1st January, 1803, *and the words and figures from* for the pargana *to* 1st November, 1817.
			In section 4, *the words and figures* Regulation XLI, 1795, Regulation XXXI, 1803.
1827	V	The Bengal Attached Estates Management Regulation, 1827.	In section 2, *the words and figures* and clauses five and six, section XVI, Regulation III, 1803.
1828	III	Land-revenue Assessment (Resumed Lands).	In the title, *the words from* the appointment *to* for otherwise.
			In section 1, *the words and figures from* By the provisions of Regulation II, 1819, *to* To remedy the aforesaid evils, *and the words from* to appoint special Commissioners *to* relative to such cases; and.
			Sections 2 to 8.
			In section 10, clause *Second, the words* whether the same be situated in districts to which the jurisdiction of a special Commissioner has been extended or in any other district, *and the words* or to the Commissioner appointed under this Regulation.
			In section 12, *the words and figures* Regulations XLI and XLII, 1795, Regulations XXXI and XXXVI, 1803, Regulations VIII.
			In section 13, clause *First, the words* or before a special Commissioner under this Regulation.
			In section 13, clause *Second, the words* to a special Commissioner under this Regulation having local jurisdiction for the time being (or, if no such jurisdiction exist).
„	IV	Land-revenue Settlement .	Section 1.
			In section 2, clause *Fourth, the words* by this Regulation and.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part I.—Regulations of the Bengal Code—concld.	
1829	I	Revenue Commissioners	In the title, *the words and figures from* for establishing *to the end*.
			In section 1, *the words* now vested in the Courts of Circuit, together with those; *the words* the former under the authority of the Nizamat Adalat, and the latter; *the words* and altogether to disjoin the functions the Courts of Circuit from those of the Judges of Appeal; *and the words and figures from* It has, at the same time, appeared to be necessary *to* superseded by the appointment of Commissioners.
			In section 2, *the figures and words from* 1st Division *to* Ghazipur, *the words* To be placed under the officer appointed to control the affairs of Arakan, *and the figures and words from* 17th *to* Rungpore.
			Sections 6 to 8, section 9, clause *First*, and section 10.
1833	IV	Convict Labourers	The whole.
"	IX	Land-revenue (Settlement and Deputy Collectors).	In the title, and in section 1, *the words and figures* and Regulation IV of 1828.
			Section 2 and the first sentence of section 3.
			In sections 8, 24 and 25, *the word* Sadr.
		Part II.—Acts of the Governor General in Council.	
1836	XXI	Districts	*The words* and to alter the limits of existing zilas.
			The whole Act, so far as it applies to the United Provinces of Agra and Oudh.
1837	VI	Land-revenue Settlement, Cuttack.	So much as is unrepealed.
1847	IX	Alluvion and Diluvion	In section 4, *the word* Government.
			In sections 5 and 6, *the word* Sadr, *where it occurs before the word* Board.
			In section 9, *the words* Except as regards the proprietary right to islands.
1850	XXXIII	The Sale of Patni-tenures Act, 1850.	So much as is unrepealed.
1853	XIX	The Recusant Witnesses Act, 1853.	So much as is unrepealed, except so far as it is in force in Assam.
1854	XX	Amendment of Bengal Regulation XIII of 1833 (Administration of parts of the Ramgarh Jungle Mahals and Midnapur districts).	The whole.
"	XXVI	Education of male minors subject to Court of Wards.	The whole.
1855	XXXII	Embankments	In section 21, *the words from* words importing the singular *to* females.
1856	XXII	Karatoyá Tolls	In section 4, *the words* or other officer exercising the powers of a Magistrate.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		***Part II.—Acts of the Governor General in Council*—contd.**	
1857	XXI	Offences, Howrah	In section 54, *the words from* The provisions *to* Provided that.
			Section 55.
			In section 57, *the words* Suburbs or, *in both places in which they occur.*
			In section 59, *the words from* words importing the singular *to* females.
1858	XXXI	Alluvial Land Settlement	Section 3.
1859	X	Rent	In sections 3 and 15, *the words* and Benares.
			In section 28, *the words and figures* section X, Regulation XLI, 1795, section VI, Regulation XXXI, 1803, section XXI, Regulation VIII, 1805, *and the words from* If such period *to the end.*
			Section 29, the second paragraph.
			In section 32, *the words from* For arrears *to* first expire.
			In section 33, *the words from* or, in the case *to* first expire, *and the words* (except the case of claims now existing as aforesaid).
			In section 163, *the words* Except as provided in the last preceding section.
			In section 168, *the words from* Unless *to* females.
"	XI	Land-revenue Sales	In section 18, proviso, *the words* and it is hereby enacted.
			In section 22, *the words* notes or.
			Schedule B.
1867	XXXII	The Chief Commissioners' Powers Act.	In the preamble, *the words* and British Burma.
			In section 1, *the words* or British Burma.
1869	XVI	The Bhutan Duars Act, 1869.	So much as is unrepealed.
1870	XXVII	The Indian Penal Code Amendment Act, 1870.	Section 5.
1871	XIX	The Bengal Sessions Courts Act, 1871.	So much as is unrepealed.
1873	XIV	The Lunatic Soldiers' Property Act, 1873.	So much as is unrepealed.
1874	XV	The Laws Local Extent Act, 1874.	So much of sections 6 and 7 and the fourth and fifth Schedules as relates to Act XIX of 1853 (*Recusant Witnesses*).
			So much of section 7 and the fifth Schedule as relates to Act XXI of 1836 (*Creating Zilas*).
1876	XVIII	The Oudh Laws Act, 1876	So much of section 3 and the second Schedule as relates to Act XIX of 1853 (*Recusant Witnesses*).
1877	XI	The Military Lunatics Act, 1877.	In section 3, *the words* and has been ordered to be forwarded to any one of the Presidency-towns.
1878	XII	Laws, Punjab (Amending Act IV of 1872).	Section 8.
1880	IV	The Portuguese Treaty Act, 1880.	The whole.
1881		The Coroners Act, 1881	In section 1, *the words* and shall come into force on the passing thereof.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
			Part II.—Acts of the Governor General in Council—contd.
1881	XVII	The Portuguese Convention Act, 1881.	The whole.
1882	XVIII	The Burma Steam-boilers and Prime-movers Act, 1882.	In section 18, *the word* thrice *and the word* last.
1885	IX	The Excise and Sea Customs Law Amendment Act, 1885.	So much of section 4 as is unrepealed.
1886	XV	Land-revenue, United Provinces (Amending Act XIX of 1873).	The whole.
1887	IV	The Indian Museum Act, 1887.	Section 4.
1888	X	The Presidency Small Cause Courts Law Amendment Act, 1888.	In the title and preamble, *the words and figures* and the Presidency Small Cause Courts Act, 1882. Section 2 and the second Schedule.
1890	XVII	The Indian Census Act, 1890.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	In the title, *the words* to repeal certain obsolete enactments and *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* repealed; And, *and the word* also. In section 1, *the words* Repealing and. Section 2, sub-section (*1*). So much of section 2, sub-section (*2*), and the second Schedule, Part I, as relates to the following enactments, namely:— Act V of 1869 (Indian Articles of War), Part I, clause (c); Act XVII of 1876 (Oudh Land-revenue Act, 1876); and Act XII of 1881. Section 3 and the first Schedule.
1892	IV	The Court of Wards Act (Bengal) Amendment Act, 1892.	In section 1, *the word* and, *and* sub-section (*2*).
1893	II	The Porahat Estate Act, 1893	In section 1, *the word* and *and* sub-section (*2*).
"	XI	The Tributary Mahals of Orissa Act, 1893.	In the preamble, *the words* to repeal certain enactments relating to the Tributary Mahals of Orissa and. In section 1, *the word* and, *and* sub-section (*3*). Section 2 and the Schedule.
1894	IV	The Repealing and Amending Act, 1894.	In the title, *the words* to repeal certain obsolete enactments and *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* repealed; And, *and the word* also. In section 1, *the words* Repealing and. Section 2, sub-section (*1*), section 3 and the first Schedule.
"	XIII	The Repealing and Amending (Army) Act, 1894.	In section 1, *the words* Repealing and. Section 2, sub-section (*1*), and the first Schedule.
"	XVI	Tariff (Amending Act VIII of 1894).	The whole.
1895	I	The Presidency Small Cause Courts Act, 1895.	Section 4.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part II.—Acts of the Governor General in Council—concld.	
1895	XVI	The Repealing and Amending Act, 1895.	In the title, *the words* to repeal certain obsolete enactments and, *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* repealed; And, *and the word* also. In section 1, *the words* Repealing and. Section 2, sub-section (*1*), section 3 and the first Schedule. So much of the second Schedule as relates to Bombay Act IV of 1882.
1896	VII	The Presidency Small Cause Courts Act (1882) Amendment Act, 1896.	The whole.
„	XIV	Repealing part of the Government Tenants (Punjab) Act, 1893.	The whole.
1897	II	The Criminal Tribes Act Amendment Act, 1897.	In section 1, *the word* and *and* sub-section (*2*).
„	V	The Repealing and Amending Act, 1897.	In the title, *the words* to repeal certain obsolete enactments and *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* specifically repealed; And, *and the word* also *where it first occurs*. In section 1, *the words* Repealing and. Section 2, sub-section (*1*), section 3 and the first Schedule.
„	X	The General Clauses Act, 1897.	Section 2 and the schedule.
„	XI	The Bhopal Coinage Act, 1897.	The whole.
1898	III	The Lepers Act, 1898 . .	Section 19.
„	XIII	The Burma Laws Act, 1898 .	In the preamble, *the word* repeal. Section 18 and the fifth Schedule.
1900	III	The Prisoners Act, 1900 .	Section 31.
1901	I	Native Military Lunatics (repeal of enactments).	The whole.
„	XI	The Repealing and Amending Act, 1901.	In the preamble, *the words from* And whereas it is also expedient that certain enactments *to* repealed. In section 1, *the words* Repealing and. Section 3, sub-section (*2*), section 4 and the third Schedule.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part III.—Bengal Acts.	
1862	III	Land-revenue Sales	In the preamble, *the word* under *where it first occurs, and the words* and farms, *where they first occur.*
			In section 2, the first two paragraphs.
"	VI	Rent	Section 1.
			In sections 2, 3, 12, 14 and 16, *the words* hereafter to be brought.
			In section 8 *the words* instituted after the passing of this Act.
			In section 14, *the words and figures* So much of section LXXI of Act X of 1859 as directs that no fee for any agent shall be charged as part of the costs of suit in any case under the Act is hereby repealed.
			In section 17, *the words* hereafter to be instituted.
			In section 18, *the words* after the date of the passing of this Act.
			In section 21, *the words* except as regards suits instituted thereunder before the passing of this Act.
			In Schedules A and B, *the word* Company's, *wherever it occurs.*
1863	II	Smoke Nuisances, Calcutta and Howrah.	In section 1, *the words and figures* on and after the first day of July, 1864, *and the words and figures* on or after the said first day of July, 1864, and.
			Section 6.
			In section 7, *the words and figures from* All penalties imposed *to* time being.
1864	V	The Canals Act, 1864	In the preamble, *the word* the, *where it occurs before the word* canals, *and the words* specified in the Regulations and Acts in the Schedule to this Act annexed.
			In section 1, *the words from* Words importing the singular *to* feminine.
			In section 2, the last thirty-four words.
			In section 3, *the words and figures* Act VI of 1857 (*for the acquisition of land for public purposes*) or of, *the word* other, *and the words* that may now or hereafter be.
			Section 17 and the Schedule.
"	VII	The Salt Act, 1864	In section 3, *the words* the word "Magistrate" shall mean any person exercising the full powers of a Magistrate under the Code of Criminal Procedure, *and the words from* words importing the singular *to* feminine.
			Sections 35 and 36.
			In section 40, *the words and figures* section 35 of.
1865	III	Fire in Ports	So far as it is unrepealed.
"	IV	Prevention of Inoculation	In section 4, as in force in Bengal, *the words* and to the recovery of fines,
			In section 4, *the words and figures from* beyond the town of Calcutta *to* said town.

THE THIRD SCHEDULE—*contd.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.
		Part III.—Bengal Acts—contd.	
1865	VII	Slaughter-houses and Meat-markets.	In the title and preamble, *the words* in the Suburbs of Calcutta. In section 8, *the words and figures* and the magisterial powers conferred upon the Municipal Commissioners by section VI of the above Act shall be exercised by them for all the purposes of this Act.
"	VIII	Rent Recovery (Under-tenures)	In section 1, the second sentence.
1866	II	Calcutta Suburban Police .	Section 31. In section 51, *the words from* words importing the singular *to* females. Section 52.
"	III	Bengal Legislative Council (Witnesses).	In section 6, *the words from* words importing the singular *to* feminine.
"	IV	The Calcutta Police Act, 1866	In section 3, *the words from* words importing the singular *to* females. In section 77, *the words and figures* or with any of the offences numbered 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 20, 21, 22, 23, 24 and 25 in section 26 of this Act. Form B in the Schedule.
"	VII	Embankments . . .	In section 10, *the words from* words in the singular *to* females.
1867	II	Public Gambling . . .	In section 1, *the words from* words importing the masculine *to the end.* In section 14, *the words and figures from* The provisions *to* shall apply to, *the words* and penalties, *the words* in any town or place other than the town of Calcutta; and such fines, *and the words and figures from* And the provisions *to the end.* In section 16, *the words* from and after the passing of this Act, *in both places in which they occur.* Section 17.
"	III	Ports	In section 1, *the words* words importing the singular number include the plural, and words importing the plural number include the singular. In section 15, *the words* and hospital port-dues, *and the word* respectively. In section 17, *the words from* and the provisions, *where they first occur, to the end.* In the third Schedule, *the figures* 11, *and the words from* Hospital port-dues *to the end.*
"	IV	Rents (Appeals) . . .	The title and preamble. Sections 2, 3 and 4. In section 5, *the words* From and after the passing of this Act.
"	X	Land-revenue Settlement, Cuttack.	The whole.
1868	VII	Land-revenue Sales .	In sections 3 and 4, *the words* From the date when this Act comes into operation. In section 3, *the words from* and the words *to the end.* Section 9 and Schedules A, B, C and D.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part III.—Bengal Acts—contd.	
1869	V	Place of sitting of Courts of Session.	The whole.
"	VII	Police	Section 1.
1871	IV	The Puri Lodging-house Act, 1871.	In section 3, *the words* From and after the passing of this Act.
			In section 7, *the words* After the passing of this Act.
			Section 39.
"	VII	Calcutta Port Improvement (Amending Ben. Act V of 1870).	The whole.
"	XI	Census	The whole.
1874	I	Calcutta Suburban Police .	So much as is unrepealed.
1875	IV	Realization of famine loans .	The whole.
"	V	The Bengal Survey Act, 1875.	In section 1, *the words from* and shall *to* General.
1876	III	The Bengal Irrigation Act, 1876.	Section 2 and Schedule A.
"	VI	The Agrarian Disputes Act, 1876.	The whole.
"	VII	The Land Registration Act, 1876.	In section 1, *the words from* and it shall *to the end.*
			Section 2 and the Schedule.
1878	V	Land Registration . .	Section 2.
"	VII	The Bengal Excise Act, 1878	The concluding paragraph of section 3.
			In section 51, *the words* except in the town of Calcutta, *and the words and figures* and, in the said town, the provisions of sections 164, 165 and 166 of the Presidency Magistrates' Act.
1879	I	The Chota Nagpur Landlord and Tenant Procedure Act.	In section 1, *the words* and the Tributary Mahals, *and the words from* And it shall *to the end.*
			Sections 3 and 4.
			In section 150, *the words and figures* or of Bengal Act VI of 1876.
			Schedule A.
"	II	Puri Lodging-houses . .	In the preamble, *the words and figures* to places other than those specified in section 39 of the said Act.
			Section 1.
"	III	Steam-boilers and Prime-movers.	In the title and preamble, *the words* in the town and suburbs of Calcutta and in Howrah.
			In section 1, *the words from* and it shall *to* General.
			In section 12, *the words from* No charge shall *to* Calcutta Gazette and.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part III.—Bengal Acts—contd.	
1879	VI	The Darjeeling Steam Tramway Act.	In section 1, *the words from* And it shall *to the end.*
"	VIII	Rent Settlement . . .	In section 1, *the words from* and it shall *to the end.* Section 2. In section 4, *the words and figures* or in sections 14, 15 and 18 of Bengal Act VIII of 1869.
"	IX	The Court of Wards Act, 1879.	In section 2, *the words and figures from* And all suits *to the end.*
1880	I	The Calcutta Tramways Act, 1880.	In section 1, *the words from* and it shall *to the end.*
"	VI	The Bengal Drainage Act, 1880.	In section 1, *the words from* and it shall *to the end.* Sections 60 to 63.
"	VIII	The Bengal Contagious Diseases (Animals) Act, 1880.	In section 1, *the words from* and it shall *to the end.*
"	IX	The Cess Act, 1880 . .	In section 1, *the words from* and it shall *to the end.*
1881	V	The Calcutta Burial Boards Act, 1881.	In section 1, *the words from* and it shall *to the end.*
1882	II	The Bengal Embankment Act, 1882.	In section 1, *the words from* And it shall *to the end.* In section 2, *the words* From such day. In section 46, *the words* after the commencement of this Act.
1883	I	Excise	Section 13.
"	III	The Bengal Tramways Act, 1883.	In section 1, *the words from* It shall *to the end.*
1884	I	Puri Lodging-houses . .	Section 1.
"	II	Amendment of the Calcutta Tramways Act, 1880.	In section 1, *the words from* And it shall *to the end.* Section 2.
"	III	The Bengal Municipal Act, 1884.	In section 1, *the words from* But any notification *to the end.* In section 2, *the words* On the commencement of this Act, *and the words* And all proceedings now pending, which may have been commenced under any such enactment, shall be deemed to be commenced under this Act.
"	V	Calcutta Municipality . .	The whole.
1886	I	Village Chaukidars . .	In section 1, *the words from* from the date *to the end.*
"	II	Calcutta and Suburban Police	Section 1.
"	III	Municipalities . . .	Section 1.
1887		The Calcutta Survey Act, 1887.	In section 1, *the words from* and shall *to* General.
"	V	The Chota Nagpur Rural Police Act, 1887.	In section 1, *the words from* and shall *to* General. In section 38, *the words and figures from* Act VIII *to* repealed and.
1888	I	Municipalities . . .	The whole.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part III.—Bengal Acts—contd.	
1888	III	The Howrah Bridge Act Amendment Act, 1888.	In section 2, *the words from* and it shall *to the end.*
1889	III	Loan by Calcutta Port Commissioners to Calcutta Corporation.	The whole.
"	IV	Calcutta Burial Boards .	Section 1.
1890	I	Calcutta and Suburban Police (Superannuation Fund).	Sections 1 and 3.
"	II	Vaccination (Amending Bengal Act V of 1880).	Section 1. Section 4, sub-section (*3*).
1891	II	The Calcutta Hackney Carriage Act, 1891.	Section 1, sub-section (*2*).
1892	I	Village Chaukidars . .	Section 2, sub-section (*1*), and sections 6 and 12.
1893	I	The Licensed Warehouse and Fire-brigade Act, 1893.	Section 1, sub-section (*3*). In section 4, *the words* From and after the commencement of this Act. In section 27, *the words and figures* or at the credit of any fund appropriated to the maintenance of the fire-brigade under the provisions of Act IV of 1883 at the time when this Act comes into force.
1894	I	The Licensed Warehouse and Fire-brigade Amendment Act, 1894.	In section 1, *the words from* and shall *to the end.* Sections 4 and 5.
"	II	Calcutta Port . . .	Section 1.
"	III	The Calcutta Tramways Act, 1894.	In section 1, *the words from* and it shall *to the end.*
"	IV	Municipalities . . .	In section 1, *the words from* and it shall *to the end.* Sections 5, 9, 46, 51, 77, 83 and 89.
"	VI	Municipalities . . .	The whole.
1895	I	The Public Demands Recovery Act, 1895.	Section 1, sub-section (*3*).
"	II	Calcutta and Suburban Police.	Section 1.
"	IV	Calcutta Port . .	Section 1, sub-section (*2*), and sections 4, 6, 14 and 16.
"	VI	Calcutta Port . . .	Section 1, sub-section (*2*). In section 2, *the words and figures* as amended by section 4 of Act IV (B. C.) of 1895. In section 5, *the words and figures* as amended by section 14 of Act IV of 1895 (B. C.). In section 6, *the words and figures* as amended by section 16 of Act IV of 1895 (B. C.).

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		***Part III.—Bengal Acts*—concld.**	
1895	VII	The Bhutan Duars Repealing Act, 1895.	The whole.
"	VIII	The Bengal Sanitary Drainage Act, 1895.	Section 1, sub-section (3).
"	IX	The Calcutta Electric Lighting Act, 1895.	Section 1, sub-section (2).
1896	II	Municipalities . . .	Section 1, section 9, sub-section (4), and section 19.
1897	I	Public Demands Recovery .	Sections 1 and 3.
"	IV	The Chota Nagpur Commutation Act, 1897.	Section 2.
1898	I	The Calcutta Police Act, 1898.	In section 1, *the word* and, *and* sub-section (2).
"	II	The Calcutta Port (Amendment) Act, 1898.	In section 1, *the word* and, *and* sub-section (2).
"	III	The Bengal Tenancy (Amendment) Act, 1898.	In section 1, *the word* and, *and* sub-section (2). Section 11.
1899	I	The Bengal General Clauses Act, 1899.	Section 2.
"	III	The Calcutta Municipal Act, 1899.	In section 1, *the words and figures* and (3) It shall come into force on the first day of April, 1900. The proviso to section 1. In section 2, *the words and figures* On and from the said first day of April, 1900. Section 60, sub-section (*1*).
1900	I	The Darjeeling Municipal Act, 1900.	In the preamble, *the words* and to provide for the temporary exercise by the Local Government of certain powers of the Commissioners of the Darjeeling Municipality. Section 23. Part II (sections 24 to 28). Schedules E, F and G.
"	II	The Calcutta Municipal Act, 1900.	The whole.
		Part IV.—Madras Acts.	
1880	II	Repealing Madras Act III of 1863.	The whole.
1881	II	Repealing Madras Act I of 1868.	The whole.
1882	II	Repealing Madras Regulation XIV of 1816.	The whole.
		Part V.—Bombay Acts.	
1872	I	Police, Bombay Town . .	So much as is unrepealed.
1879	I	District Municipalities . .	So far as it is unrepealed.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		***Part V.—Bombay Acts.*—concld.**	
1879	II	Police, Bombay Town .	The whole.
1882	IV	Police, Bombay Town .	The whole.
1885	IV	Local Boards and District Municipalities.	In the title, *the words and figures* and the Bombay District Municipal Act Amendment Act, 1884.
			Section 5 and the preamble prefixed thereto.
1888	I	Local Boards and District Municipalities.	In the title and preamble, *the words and figures* and the Bombay District Municipal Act Amendment Act, 1884.
			In section 1, *the words and figures* and to section 18 of the Bombay District Municipal Act Amendment Act, 1884.
1892	III	The Bombay Abkári Act Amendment Act, 1892.	Section 5.
		Part VI.—United Provinces Act.	
1894	I	Repealing the Tarai Regulation, 1876.	The whole.
		Part VII.—Regulations made under the Government of India Act, 1870 (33 & 34 Vict., c. 3).	
1871	I	Peshawar District Limitation Regulation, 1871.	The whole.
	III	The Sonthál Parganas Settlement Regulation.	So much of section 3, sub-section (*1*), and the Schedule (as amended by section 3 of the Sonthál Parganas Justice and Laws Regulation, 1899) as relates to the following enactments, namely :—
			Act XXXVIII of 1850 (The Sale of Patni Tenures Act, 1850);
			Act XV of 1869 (The Prisoners' Testimony Act 1869) ;
			Act I of 1882 (The Assam Labour and Emigration Act, 1882);
			Act IX of 1882 (The Prisoners Act Amendment Act, 1882);
			Act V of 1888 (the Inventions and Designs Act, 1888), section 2;
			Act VII of 1893 (The Inland Emigration Act, 1893) ;
			Act VII of 1894 [The Prisoners Act (1871) Amendment Act, 1894];
			Bengal Act I of 1889 (The Inland Emigrants' Health Act, 1889) ;
			Bengal Act VI of 1894 (Municipalities);
			Bengal Act V of 1895 (The Lepers Act, 1895); and
			Regulation III of 1886 (The Sonthál Parganas Laws Regulation, 1886).

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.

Part VII.—Regulations made under the Government of India Act, 1870 (33 & 34 Vict., c. 3)—contd.

1872	III	The Sonthál Parganas Settlement Regulation—*contd.*	In section 25, *the words* if any suit affecting such rights be pending at the time when this Regulation shall come into operation, or.
1873	V	Bengal Eastern Frontier Regulation, 1873.	In the preamble, *the words* and Chittagong Hills.
1874	IX	The Arakan Hill District Laws Regulation, 1874.	So much of section 3 and the Schedule as relates to Act XXXIV of 1855 (Enforcement of judgments of Charter Courts) and Act XXXII of 1867 (The Chief Commissioners' Powers Act).
1881	III	The Chittagong Hill Tracts Frontier Police Regulation, 1881.	In section 1, *the words from* and it shall *to the end.*
1886	II	The Sonthál Parganas Rent Regulation, 1886.	The preamble *to* made and. Section 1, sub-section (2), and section 5. In section 22, sub-section (1), *the words and figures* under Bengal Act VII of 1880.
"	III	The Sonthál Parganas Laws Regulation, 1886.	So much as is unrepealed.
"	VII	The Upper Burma Criminal Justice Regulation, 1886.	So much as is unrepealed.
1890	I	The British Baluchistan Laws Regulation, 1890.	So much of section 3, sub-section (1), and the Schedule as relates to Act XIV of 1873 (Lunatic Soldiers).
"	VI	Criminal Justice, Upper Burma.	The whole.
1893	V	The Sonthál Parganas Justice Regulation, 1893.	Section 2.
"	IX	The Ajmer Repealing and Amending Regulation, 1893.	In the title, *the words* to repeal certain obsolete enactments and, *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* repealed; And *and the word* also. In section 1, *the words* Repealing and. Section 2, sub-section (1), section 3 and the first Schedule.
1894	I	The Angul District Regulation, 1894.	So much of section 3, sub-section (1), and the schedule as relates to the following Acts, namely :— Act XIV of 1866 (Post Office); Act I of 1868 (General Clauses); Act XV of 1869 (Prisoners Testimony); Act X of 1870 (Land Acquisition); Act XXVI of 1870 (Prisons); Act I of 1879 (Stamps); Act X of 1882 (Criminal Procedure); Act XVIII of 1883 (Cattle-trespass); Act I of 1887 (General Clauses);

THE THIRD SCHEDULE—*concld.*

1 Year.	2 No.	3 Subject or short title.	4 Extent of repeal.
		***Part VII.—Regulations made under the Government of India Act, 1870 (33 & 34 Vict., c. 3)*—concld.**	
1894	I	The Angul District Regulation, 1894—*contd.*	So much of section 3, sub-section (*1*), and the schedule as relates to the following Acts, namely:— Act XII of 1890 (Tariff); Bengal Act II of 1864 (Jails); and Bengal Act V of 1867 (General Clauses). In section 3, sub-section (*2*), *the words* or to have been, *the words* shall have been expressly extended thereto or, *and the word* so. Section 3, sub-section (*2*), proviso. In column 1 of Part II of the schedule, in the entry relating to Act X of 1873 (Oaths), *the words and figures* (except the first sentence of section 16).
1899	III	The Sonthál Parganas Justice and Laws Regulation, 1899.	In section 1, *the word* and *and* sub-section (*2*).
1900	I	The Chittagong Hill-tracts Regulation, 1900.	Section 20.
,,	III	The Sonthál Parganas Rural Police Regulation, 1900.	In section 1, *the words and figure* and (*3*) It shall come into force at once.
1901	VII	The North-West Frontier Province Law and Justice Regulation, 1901.	So much of Part I of the first Schedule as relates to section 31 of the Prisoners Act, 1900.

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 6th March, 1903, and is hereby promulgated for general information :—

ACT NO. II OF 1903.

An Act to amend the Indian Post Office Act, 1898.

VI of 1898. WHEREAS it is expedient to amend the Indian Post Office Act, 1898; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Post Office (Amendment) Act, 1903.

Addition to Act VI of 1898, section 2, clause (*b*). 2. At the end of clause (*b*) of section 2 of the Indian Post Office Act, 1898, the following shall be added, namely :— VI of 1898.

"Provided that the expression 'inland' shal not apply to any class of postal articles which may be specified in this behalf by the Governor General in Council by notification in the Gazette of India, when posted in or at or addressed to any places or post offices which may be described in such notification."

J. M. MACPHERSON,
Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MARCH 26, 1903.

PART IV.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 13th March, 1903:—

NO. 8 OF 1903.

A Bill to provide for the erection and management of the Victoria Memorial at Calcutta.

WHEREAS it is intended to erect at Calcutta a building as a Memorial of the Life and Reign of Her late Majesty VICTORIA of the United Kingdom of Great Britain and Ireland Queen, Empress of India, and for this purpose large sums of money have been subscribed by the Princes and People of India;

And whereas at a meeting of Subscribers held in Calcutta certain persons were appointed a Provisional Executive Committee to take the custody of the said moneys;

And whereas it is expedient to make provision for the erection, maintenance and management of the Memorial and for the appointment of a permanent body of Trustees;

It is hereby enacted as follows:—

Short-title and commencement.

1. (1) This Act may be called the Victoria Memorial Act, 1903.

(2) It shall come into force at once.

Trustees.

2. (1) The Trustees of the Victoria Memorial (hereinafter called the Trustees) shall be the following, namely:—

(a) the Governor General of India,

(b) the Lieutenant-Governor of Bengal,

(c) the Chief Justice of Bengal,

(d) two persons of high rank nominated by the Governor General to represent the Chiefs and Nobles of India,

(e) the Secretary to the Government of India in the Foreign Department,

(f) the President of the Bengal Chamber of Commerce,

(g) the Chairman of the Calcutta Municipality, and

(h) such and so many persons as shall from time to time be nominated by the Trustees with the approval of the Governor General to represent the general body of Subscribers.

(2) The Trustees shall be a body corporate, with perpetual succession by the name of 'The Trustees of the Victoria Memorial' and a common seal, and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts, and to do all acts necessary for and consistent with the purposes of this Act.

(3) All acts done by a majority of those present and voting at a meeting of the Trustees shall be deemed to be acts of the Trustees.

(4) No act of the Trustees shall be deemed to be invalid merely by reason of any vacancy in, or defect in the constitution of, the body of the Trustees.

(5) In the case of *ex-officio* Trustees the person for the time being performing the duties of any of the offices mentioned in sub-section (1) shall act as a Trustee.

(6) The Trustees may appoint a person to act as their Secretary.

(7) Orders for the payment of money on behalf of the Trustees shall be deemed to be sufficiently authenticated if signed by two Trustees and countersigned by the Secretary.

Property vested in Trustees.

3. All sums of money now in the custody of the said Provisional Executive Committee and all other property, whether moveable or immoveable, which have been or may hereafter be given, bequeathed or otherwise transferred for the purposes of the said Memorial or acquired for the said purposes by the Trustees shall vest in the Trustees.

XLV of 1860.

Officers and servants to be public servants.

4. All officers and servants employed by the Trustees shall be deemed to be public servants within the meaning of the Indian Penal Code:

Provided that this section shall not apply to persons in the service of any contractor employed by the Trustees.

Rules.

5. (1) The Governor General in Council may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide—

(a) for the manner in which Trustees, other than *ex-officio* Trustees, shall be appointed, and for the periods of time for which such Trustees shall hold office;

(b) for the manner in which meetings of the Trustees shall be convened, the quorum necessary for the transaction of business, and the procedure of such meetings;

(c) for the appointment of Committees of the Trustees, and the powers of expenditure and control which may be delegated to such Committees;

(d) for the erection, maintenance and management of the Memorial, the care and custody of the objects deposited therein, and the conditions under which the public shall have access thereto;

(e) for the form of accounts to be kept by the Trustees, and for the audit and publication of such accounts; and

(f) for the application to the officers and servants employed by the Trustees of the rules which apply to the civil servants of the Crown, or to any class of such civil servants.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to make legal provision for the erection, maintenance and management of the building which it is proposed to construct at Calcutta as a Memorial of the life and reign of Her late Majesty Queen Victoria, Empress of India.

The Bill provides for the incorporation of a body of Trustees, with power to acquire and hold property, to enter into contracts and to do all acts necessary for and consistent with the purposes of the Bill. It vests in these Trustees all property which has been or may hereafter be given, bequeathed or otherwise transferred for the purposes of the Memorial or acquired for the same purpose by the Trustees, and it gives the Governor General in Council power to make rules to carry out the purposes of the proposed Act.

A draft of the rules which the Governor General in Council proposes to issue at once in the event of the Bill becoming law is appended for general information.

DENZIL IBBETSON.

The 12th March, 1903.

Draft of the Rules proposed to be made under the Victoria Memorial Act, 1903.

In exercise of the power conferred by section 5 of the Victoria Memorial Act, 1903, the Governor General in Council is pleased to make the following rules—

Trustees : Term of Office.

1. A Trustee appointed under the Victoria Memorial Act, 1903, section 2, sub-section (*1*), clause (*d*) or clause (*h*), shall, subject to the provisions of Rules 2 and 3, hold office for five years, and shall be capable of re-appointment.

2. If a Trustee appointed as aforesaid leaves India without the intention of returning, he shall thereupon cease to be a Trustee.

3. If a Trustee appointed as aforesaid gives notice in writing to the Trustees that he desires to resign his office, the Trustees shall cause such notice to be recorded in their proceedings, and the person so giving notice shall thereupon cease to be a Trustee.

Meetings.

4. Meetings of the Trustees shall be convened by the Governor General.

5. The quorum necessary for the transaction of business at a meeting of the Trustees shall be five.

6. The Governor General, or in his absence the Lieutenant-Governor of Bengal, shall preside at meetings of the Trustees. In the absence of both the Governor General and the Lieutenant-Governor, the Trustees present shall elect one of their number to preside.

7. The President at any meeting of the Trustees shall have a deliberative and also a casting vote.

Committees.

8. There shall be a Building Committee, consisting of the Lieutenant-Governor of Bengal, the President of the Bengal Chamber of Commerce, the Chairman of the Calcutta Municipality, and two or more Trustees to be chosen by the Trustees.

9. The Lieutenant-Governor of Bengal, or in his absence a Member of the Building Committee authorized by him, shall convene and preside at meetings of the Building Committee, and the Lieutenant-Governor or the member presiding at any such meeting shall have a deliberative and also a casting vote.

10. The Trustees may, if they think fit, authorise the Building Committee to open a banking account, and may pay to such account such sums of money as they may from time to time think necessary for the purpose of erecting the Victoria Memorial. Cheques drawn on such account by order of the Building Committee shall be signed by two members of the said Committee.

11. On the 31st day of December in each year the Building Committee shall present a Report of its proceedings to the Trustees, and the Trustees shall cause the Report or a summary thereof to be published for general information.

Accounts.

12. The Trustees shall keep accounts of all moneys received and expended by them, including any moneys paid to and expended by the Building Committee, and shall cause such accounts to be audited annually by a chartered accountant practising in Calcutta, and an abstract of such accounts, together with the auditor's certificate thereon, shall be published for general information.

J. M. MACPHERSON,
Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, APRIL 2, 1903.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 13th March, 1903, and is hereby promulgated for general information:—

ACT NO. III OF 1903.

THE INDIAN ELECTRICITY ACT (1903).

CONTENTS.

PART I.

PRELIMINARY.

PART II.

SUPPLY OF ENERGY TO THE PUBLIC.

The Indian Electricity Act, 1903.

The Indian Electricity Act, 1903.

(Part I.—Preliminary.—Sections 1-2. Part II.—Supply of Energy to the Public.—Section 3.)

An Act to make better provision for facilitating and regulating the supply and use of electrical energy for lighting and other purposes.

WHEREAS it is expedient to make better provision for facilitating and regulating the supply and use of electrical energy for lighting and other purposes ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title and extent.

1. (1) This Act may be called the Indian Electricity Act, 1903.

(2) It extends to the whole of British India, inclusive of British Baluchistan and the Santhal Parganas ; and

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, direct in this behalf.

XIII of 1885. Definitions.

2. In this Act, expressions defined in the Indian Telegraph Act, 1885, have the meanings assigned to them in that Act, and, unless there is anything repugnant in the subject or context,—

(a) "aërial line" means any electric supply-line which is placed above ground and in the open air :

(b) the expression "area of supply" means the area within which alone a licensee is for the time being authorized to supply energy:

(c) "consumer" means any person supplied, or entitled to be supplied, with energy by a licensee :

(d) the expression "consumer's terminals" means the ends of the electric lines situate upon any consumer's premises and belonging to him, at which the supply of energy is delivered from the service lines :

(e) "daily fine" means a fine for each day on which an offence is continued after conviction therefor :

(f) "distributing main" means the portion of any main which is used for transmitting energy to service lines for the purposes of general supply :

(g) "electric supply-line" means a wire, conductor or other means used for conveying, transmitting or distributing energy for any purpose, together with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy :

(h) "electrical power" means the rate per unit of time at which energy is supplied :

(i) "energy" means electrical energy expended at a rate greater than twenty-five watts :

(j) "general supply" means the general supply of energy to ordinary consumers, and includes, in the absence of a special agreement to the contrary with the Government or with a local authority, the general supply of energy for public lamps, but does not include the supply of energy to particular consumers under special agreements :

(k) "licensee" means any person licensed under Part II to supply energy :

(l) "main" means any electric supply-line which is laid by a licensee in any street and through which energy may be supplied, or is intended to be supplied, by the licensee for the purpose of general supply :

(m) "plan" includes a section :

(n) "purpose" includes any purpose except the transmission of a message :

(o) "service line" means any electric supply-line through which energy may be supplied, or is intended to be supplied, by a licensee to a consumer either from a main or directly from the licensee's premises :

(p) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway : and

(q) the expression "works" includes electric supply-lines and any buildings machinery or apparatus required to supply energy and to carry into effect the objects of a licensee.

PART II.

SUPPLY OF ENERGY TO THE PUBLIC.

Supply of energy for traction or to the public for any purpose to be licensed.

3. (1) No person shall supply energy for electric traction or to the public for any purpose except under, and in

The Indian Electricity Act, 1903.

(Part II.—Supply of Energy to the Public.—Section 4.)

accordance with the terms and conditions of, a license granted by the Local Government under this Part:

Provided that nothing in this section shall apply to any railway or tramway subject to the provisions of the Indian Railways Act, 1890.

(2) Where any difference or dispute arises as to whether energy is or is not supplied or to be supplied for electric traction or to the public for any purpose within the meaning of sub-section (1), the matter shall be referred to the Local Government, and the decision of the Local Government thereon shall be final.

Grant and revocation of licenses.

4. (1) The Local Government may grant a license to any person to supply energy for any purpose in any specified local area, and also to lay down electric supply-lines for the conveyance and transmission of energy from a generating station situated outside such specified local area to the boundary of such specified local area in any case in which the energy to be supplied is to be generated outside such specified local area; and in respect of every such license and the grant thereof the following provisions shall have effect, namely:—

(a) Before granting a license under this Part the Local Government shall consult every local authority concerned, and where such local authority advances any objection to the grant of a license, the Local Government shall take such objection into consideration and, if in its opinion it is insufficient, shall record in writing and communicate to such local authority its reasons for such opinion.

(b) Any person applying for a license under this Part shall publish a notice of his application in such manner and with such particulars as the Governor General in Council may by rule direct, and no such license shall be granted until three months from the date of the first publication of such notice as aforesaid have expired and until all representations or objections received by the Local Government within that period with reference thereto have been considered by it.

(c) No application for a license under this Part shall be made by any local authority except in pursuance of a resolution passed at a meeting of such authority held after one month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given.

(d) A license under this Part may prescribe such terms as to the limits within which, and the conditions under which, the supply of energy is to be compulsory or permissive, and as to the limits of price to be charged in respect of the supply of energy, and generally as to such other matters as the Local Government may think fit.

(e) The grant of a license under this Part for any purpose shall not in any way hinder or restrict the grant of another license to another person within the same area of supply for a like purpose.

(f) The provisions contained in the schedule shall be deemed to be incorporated with, and to form part of, every license granted under this Part, save in so far as they are expressly added to, varied or excepted by the license, and shall, subject to such additions, variations or exceptions (if any) which the Local Government, with the previous sanction of the Governor General in Council, is hereby empowered to make, apply to the undertaking authorized by the license, and shall be binding in like manner and to the same extent as if enacted in this Act.

(2) The Local Government may, if in its opinion the public interest so requires, revoke a license, as to the whole or any part of the area of supply, in any of the following cases, namely:—

(a) where the licensee, in the opinion of the Local Government, makes wilful and unreasonably prolonged default in doing anything required of him by or under this Act;

(b) where the licensee breaks any of the terms or conditions of his license the breach of which is expressly declared by such license to render it liable to revocation;

(c) where the licensee not being a local authority fails, within a period of six months after the date of his license or such further period as the Local Government may determine and before exercising any of the powers conferred on him thereby in relation to the execution of works, to show, to the satisfaction of the Local Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his license, or fails to make the deposit or furnish the security required by his license;

The Indian Electricity Act, 1903.

(Part II.—Supply of Energy to the Public.—Section 5.)

(*d*) where the licensee is, in the opinion of the Local Government, unable, by reason of his insolvency, fully and efficiently to discharge the duties and obligations imposed on him by his license;

(*e*) where the licensee, not being a local authority, shows, to the satisfaction of the Local Government, at any time after the commencement of his license, that his undertaking cannot be carried on with profit and ought to be abandoned;

(*f*) where the licensee supplies energy by means of some system not approved by the Local Government;

(*g*) in any other case, with the consent of the licensee and, if the licensee is not a local authority, with that of the local authority (if any) concerned, and upon such terms and conditions as it thinks just:

Provided that the Local Government shall not revoke the license as to part only of the area of supply if the licensee represents that he desires to be relieved of his liabilities in respect of the whole.

(*3*) Where the Local Government might, under sub-section (*2*), revoke a license, it may, instead of revoking the license, permit it to remain in force subject to such further terms and conditions as it thinks fit, and any further terms or conditions shall be binding upon, and be observed by, the licensee, and shall be of like force and effect as if they were contained in the license.

Provisions where license of licensee, not being a local authority, is revoked.

5. Where the Local Government revokes the license of any licensee, not being a local authority, as to the whole or any part of the area of supply, the following provisions shall have effect, namely:—

(*a*) The Local Government shall serve a notice of the revocation upon the licensee and upon any local authority concerned, and shall in the notice fix a date on which the revocation shall take effect, and on and with effect from that date all the powers and liabilities of the licensee under this Act shall absolutely cease and determine.

(*b*) Within one month after the service of such notice as aforesaid any local authority concerned may, if the Local Government has intimated to the local authority that it is at liberty so to do, by notice in writing, require the licensee to sell, and thereupon the licensee shall sell, to the local authority the undertaking or such part thereof as is carried on within the area for which it is constituted, on payment of the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him for, the purpose of the undertaking or such part thereof as aforesaid, such value to be, in case of difference or dispute, determined by arbitration:

Provided that the value of such lands, buildings, works, materials and plant shall be deemed to be their fair market-value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant, and to the state of repair thereof, and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking, and, where a part only of the undertaking is purchased, to any loss occasioned by severance, but without any addition in respect of compulsory purchase or of goodwill or of any profits which may be or might have been made from the undertaking, or of any similar considerations.

(*c*) Where no purchase has been effected by a local authority under clause (*b*), and any other person is willing to purchase the undertaking or such part of it as aforesaid, the Local Government may, if it thinks fit, with the consent of the licensee, or without the consent of the licensee in case the price is not less than that for which the local authority might have purchased the same, require the licensee to sell, and thereupon the licensee shall sell, to such other person the undertaking or such part thereof as aforesaid.

(*d*) Where a purchase has been effected under clause (*b*) or clause (*c*), the undertaking, or such part thereof as aforesaid, shall vest in the purchasers free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking; and the revocation of the license shall extend only to the revocation of the rights, powers, authorities, duties and obligations of the licensee from whom the undertaking, or such part thereof as aforesaid, is purchased, and, save as aforesaid, the license shall remain in full force, and the purchaser shall be deemed to be the licensee.

(*e*) Where no purchase has been effected under clause (*b*) or clause (*c*), the

The Indian Electricity Act, 1903.

(Part II.—Supply of Energy to the Public.—Sections 6-7.)

Local Government shall have the option of purchasing the undertaking, or such part thereof as aforesaid, and, if the Local Government elects to purchase, the licensee shall sell the undertaking or part thereof to the Local Government upon terms and conditions similar to those set forth in clauses (*b*) and (*d*) save that where the Local Government is the purchaser the license shall, in so far as the Local Government is concerned, cease to have any further operation.

(*f*) Where no purchase has been effected under any of the foregoing clauses, the Local Government may forthwith cause the works of the licensee to be removed and the street to be reinstated and recover the cost of such removal and reinstatement from the licensee.

(*g*) If the licensee has been required to sell the undertaking or any part thereof, and if the sale has not been completed by the date fixed in the notice issued under clause (*a*), the purchaser may, with the previous sanction of the Local Government, work the undertaking or such part thereof pending the completion of the sale.

Provisions where license of local authority is revoked.

6. Where the Local Government revokes the license of a local authority as to the whole or any part of the area of supply, it may forthwith cause the works of the licensee to be removed and the street to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

Purchase of undertaking.

7. (*1*) Where a license has been granted, a local authority shall, on the expiration of such period, not exceeding forty-two years, and of every such subsequent period, not exceeding ten years, as shall be specified in this behalf in the license, have the option of purchasing such portion of the undertaking as is in the area for which it is constituted, and, if the local authority, with the previous sanction of the Local Government, elects to purchase, the licensee shall sell the undertaking or part thereof to it upon terms and conditions similar to those set forth in section 5, clauses (*b*) and (*d*).

(*2*) In any such case as aforesaid, if a local authority does not elect to purchase, the Local Government shall have the like option upon the like terms and conditions save that where the Local Government purchases the undertaking or any part thereof under such option the license shall, in so far as the Local Government is concerned, cease to have any further operation.

(*3*) Where, in exercise of the option conferred by sub-section (*1*), a local authority has elected to purchase the portion of the undertaking which is within the area for which it is constituted, the Local Government shall have the like option upon the like terms and conditions in respect to any portion of the undertaking which is without such area.

(*4*) Not less than twelve months' notice in writing of any election to purchase under this section shall be served upon the licensee by the local authority or the Local Government, as the case may be.

(*5*) Notwithstanding anything hereinbefore contained, the local authority may, with the previous sanction of the Local Government, waive its option of purchase and enter into an agreement with the licensee for the working by him of the undertaking, or such portion thereof as is in the area for which such authority is constituted, until the expiration of the next subsequent period referred to in sub-section (*1*), upon such terms and conditions as may be stated in such agreement.

Provisions where no purchase and license revoked with consent of licensee.

8. Where, on the expiration of any of the periods referred to in section 7, sub-section (*1*), neither the local authority nor the Local Government purchases the undertaking or any portion thereof, and the license is, with the consent of the licensee, revoked, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that, if the licensee does not exercise such option within a period of six months, the Local Government may proceed to take action as provided in section 5, clause (*f*).

Licensee not to purchase, or associate himself with, other licensed undertakings or transfer his undertaking.

9. (*1*) The licensee shall not, at any time without the previous consent in writing of the Local Government, acquire, by purchase or otherwise, the undertaking of, or associate himself with, any person supplying, or intending to supply, energy under any other license, and, before applying for such consent, the licensee shall give not less than one month's notice of the application to every local authority, both in the licensee's area of supply, and also in the area or district in which such other person supplies or intends to supply, energy.

(*2*) The licensee shall not at any time transfer his undertaking, or any part thereof, by sale, mortgage, leave, exchange or otherwise without the previous consent in writing of the Local Government.

(*3*) Any agreement relating to any transaction of the nature described in sub-section (*1*)

The Indian Electricity Act, 1903.

(Part II.—Supply of Energy to the Public.—Sections 10-13.)

or sub-section (2) which may be made without such consent as aforesaid shall be void.

General power for Local Government to vary terms of purchase.

10. Notwithstanding anything in sections 5, 7 and 8, the Local Government, with the previous sanction of the Governor General in Council, may, in any license granted under this Act, vary the terms upon which a licensee shall be bound to sell his undertaking.

Annual accounts of licensee.

11. (*1*) Every licensee shall prepare and render to the Local Government, on or before such date in each year as the Local Government may by rule fix, an annual statement of accounts of his undertaking made up to such date, in such form, and containing such particulars, as may be prescribed by the said rule.

(*2*) The licensee shall keep copies of such annual statement at his office and sell the same to any applicant at a price not exceeding one rupee per copy.

Provisions as to the opening and breaking up of streets, railways and tramways.

12. (*1*) Any licensee may, from time to time but subject always to the terms and conditions of his license,—

(*a*) open and break up the soil and pavement of any street, railway or tramway within the area of supply;

(*b*) open and break up any sewer, drain or tunnel in or under any such street, railway or tramway;

(*c*) lay down and place within the area of supply electric supply-lines and other works;

(*d*) repair, alter or remove the same; and

(*e*) do all other acts necessary for the due supply of energy within the area of supply.

(*2*) Nothing contained in sub-section (*1*) shall be deemed to authorize or empower a licensee, without the consent of the local authority or of the owner and occupier concerned, as the case may be, to lay down or place any electric supply-line or other work in, through or against any building, or on, over or under any land not dedicated to public use, whereon, whereover or whereunder any electric supply-line or work has not already been lawfully laid down or placed by such licensee:

Provided that any stay or strut required for the sole purpose of securing in position any support of an aërial electric supply-line may be fixed on any building or land or, having been so fixed, may be altered, notwithstanding the objection of the owner or occupier of such building or land, if the District Magistrate, or, in a Presidency-town, the Commissioner of Police, by order in writing so directs:

Provided also that if at any time the owner or occupier of any building or land on which any such stay or strut has been fixed shows sufficient cause, the District Magistrate or, in a Presidency-town, the Commissioner of Police, may by order in writing direct any such stay or strut to be removed or altered.

(*3*) Every order made by a District Magistrate or a Commissioner of Police under sub-section (*2*) shall be subject to revision by the Local Government.

(*4*) Nothing contained in sub-section (*1*) shall be deemed to authorize or empower any licensee to open or break up any street not repairable by a local authority, or any railway or tramway, without the consent of the person by whom the same is repairable, unless with the written consent of the Local Government:

Provided that the Local Government shall not give any such consent as aforesaid, until notice has been given, by advertisement or otherwise as the Local Government may direct, to the person by whom the street, railway, or tramway concerned is repairable, and until all representations or objections received in accordance with the notice have been considered by the Local Government.

Notice of new works.

13. (*1*) Where the exercise of any of the powers of a licensee in relation to the execution of any works involves the placing of any works in, under, over, along or across any street, part of a street, railway, tramway, canal or waterway, the following provisions shall have effect, namely:—

(*a*) Not less than one month before commencing the execution of the works (not being a house-service or the repair, renewal or amendment of existing works of which the character or position is not to be altered), the licensee shall serve upon the person or authority responsible for the repair of the street or part of a street (hereinafter in this section referred to as "the repairing authority") or upon the person or authority for the time being entitled to work the railway, tramway, canal or waterway (hereinafter in this section referred to as "the owner"), as the case may be, a notice in writing describing the proposed works, together with a detailed plan thereof, on a scale which shall not be smaller than eighty-eight feet to the inch, or such other scale as the Local Government may approve and intimating the manner in which, and the time at which, it is proposed to interfere with or alter any existing works, and shall, upon being required to do so by the repairing authority or

The Indian Electricity Act, 1903.

(Part II.—Supply of Energy to the Public.—Sections 13-14.)

owner, as the case may be, from time to time give such further information in relation thereto as may be desired.

(*b*) If the repairing authority intimates to the licensee that it disapproves of such works or plan, or approves thereof subject to amendment, the licensee may within one week of receiving such intimation appeal to the Local Government, whose decision, after considering the reasons given by the repairing anthority for its action, shall be final.

(*c*) If the repairing authority fails to give notice in writing of its approval or disapproval to the licensee within one month, it shall be deemed to have approved of the works and plan, and the licensee, after giving not less than forty-eight hours' notice in writing to the repairing authority, may proceed to carry out the works in accordance with the notice and plan served under clause (*a*).

(*d*) If the owner disapproves of such works or plan, or approves thereof subject to amendment, he may, within three weeks after the service of the notice under clause (*a*), serve a requisition upon the licensee demanding that any question in relation to the works, or to compensation, or to his obligations to others in respect thereof, shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration.

(*e*) Where no requisition has been served by the owner upon the licensee under clause (*d*), the owner shall be deemed to have approved of the works and plan, and in that case, or where after a requisition for arbitration the matter has been determined by arbitration, the works may, upon payment or securing of compensation, be executed according to the notice and plan, subject to such modifications as may have been determined by arbitration or agreed upon between the parties.

(*f*) Where the works to be executed consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered, the licensee shall, except in cases of emergency, give to the repairing authority, or to the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works, and, on the expiry of such notice, such works shall be commenced forthwith and shall be carried on with all reasonable despatch and, if possible, both by day and by night until completed.

(*2*) Where the licensee makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

(*3*) Notwithstanding anything in this section, the licensee may, in case of emergency due to the breakdown of an underground electric supply-line, after giving notice in writing to the repairing authority or the owner, as the case may be, of his intention to do so, place an aërial line without complying with the provisions of sub-section (*1*):

Provided that such aërial line shall be used only until the defect in the under-ground electric supply-line can be made good, and in no case for a period exceeding six weeks, and shall be removed as soon as may be after such defect is removed.

Alteration of pipes or wires.

14. (*1*) Any licensee may alter the position of any pipe (not forming, in a case where the licensee is not a local authority, part of a local authority's main sewer), or of any wire under or over any place which he is authorized to open or break up, if such pipe or wire is likely to interfere with the exercise of his powers under this Act; and any person may alter the position of any electric supply-lines or works of a licensee under or over any such place as aforesaid, if such electric supply-lines or works are likely to interfere with the lawful exercise of any powers vested in him.

(*2*) In any such case as aforesaid the following provisions shall, in the absence of an agreement to the contrary between the parties concerned, apply, namely:—

(*a*) Not less than one month before commencing any alteration, the licensee or other person desiring to make the same (hereinafter in this section referred to as "the operator") shall serve upon the person for the time being entitled to the pipe, wire, electric supply-lines or works, as the case may be (hereinafter in this section referred to as "the owner"), a notice in writing, together with a plan, on a scale which shall not be smaller than eighty-eight feet to the inch, or such other scale as the Local Government may approve, describing the proposed alteration, and intimating the time when it is to be commenced, and shall subsequently give such further information in relation thereto as the owner may desire.

The Indian Electricity Act, 1903.

(Part II.—Supply of Energy to the Public.—Sections 14-15.)

(*b*) Within fourteen days after the service of the notice and plan upon the owner, the owner may serve upon the operator a requisition to the effect that any question arising upon the notice or plan shall be settled by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration.

(*c*) Every arbitrator to whom a reference is made under clause (*b*), shall have regard to any duties or obligations which the owner is under, and may require the operator to execute any temporary or other works so as to avoid as far as possible interference therewith.

(*d*) Where no requisition is served upon the operator under clause (*b*), or where such a requisition has been served and the matter has been settled by agreement or determined by arbitration, the alteration may, upon payment or securing of any compensation accepted or determined by arbitration, be executed in accordance with the notice and plan and subject to such modifications as may have been determined by arbitration or agreed upon between the parties.

(*e*) The owner may, at any time before the operator is entitled to commence the alteration, serve upon the operator a statement in writing to the effect that he desires to execute the alteration himself and requires the operator to give such security for the repayment of any expenses as may be agreed upon or, in default of agreement, settled by arbitration.

(*f*) Where a statement is served upon the operator under clause (*e*), he shall not less than forty-eight hours before the execution of the alteration is required to be commenced, furnish such security and serve upon the owner a notification in writing intimating the time when the alteration is required to be commenced, and the manner in which it is required to be made; and thereupon the owner may proceed to execute the alteration as required by the operator.

(*g*) Where the owner declines to comply, or does not, within the time and in the manner prescribed by a notification served upon him under clause (*f*), comply, with the notification, the operator may himself execute the alteration.

(*h*) All expenses properly incurred by the owner in complying with a notification served upon him by the operator under clause (*f*) may be recovered by him from the operator.

(*i*) Where the operator makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Laying of electric supply-lines, or other works near sewers, pipes or other electric supply-lines or works.

15. (*1*) Where a licensee requires to dig or sink any trench for laying down any new electric supply-lines (not being service-lines) or other works, near to which any sewer, drain, watercourse or work under the control of the Local Government or of any local authority, or any main, pipe, syphon, electric supply-line or other work belonging to any duly authorized person, has been lawfully placed, or where any duly authorized person requires to dig or sink any trench for laying down or constructing any new mains or pipes (not being service-pipes) or other works, near to which any electric supply-lines or works of a licensee have been lawfully placed, the licensee or such duly authorized person, as the case may be (hereinafter in this section referred to as "the operator") shall, unless it is otherwise agreed upon between the parties interested or in case of sudden emergency, give to the Local Government or local authority, or to such duly authorized person, or to the licensee, as the case may be (hereinafter in this section referred to as "the owner"), not less than forty-eight hours' notice in writing before commencing to dig or sink the trench, and the owner shall have the right to be present during the execution of the work, which shall be executed to the reasonable satisfaction of the owner.

(*2*) Where the operator finds it necessary to undermine, but not to alter, the position of any pipe, electric supply-line or work, he shall temporarily support it in position during the execution of the work, and before completion shall provide a suitable and proper foundation for it where so undermined.

(*3*) Where the operator (being the licensee) lays any electric supply-line across, or so as to be liable to touch, any mains, pipes, lines or service-pipes or lines belonging to any duly authorized person or to any person supplying or using energy under this Act, he shall not, except with the consent of such person and of the Local Government, lay his electric supply-lines so as to come into contact with any such mains, pipes, lines or service-pipes or lines, or, except with the like consent, employ any such mains, pipes, lines or service-pipes or lines as conductors for the purpose of supplying energy.

The Indian Electricity Act, 1903.

(Part II.—Supply of Energy to the Public.—Sections 16-19.)

(4) Where the operator makes default in complying with any of the provisions of this section, he shall make full compensation for any loss or damage incurred by reason thereof.

(5) Where any difference or dispute arises under this section, the matter shall be determined by arbitration.

(6) Where the licensee is a local authority, the references in this section to the local authority and to sewers, drains, water courses or works under its control shall not apply.

Streets, railways or tramways broken up to be reinstated without delay.

16. (1) Where any person, in excercise of any of the powers conferred by or under this Act, opens or breaks up the soil or pavement of any street, railway or tramway, or any sewer, drain or tunnel, he shall—

(a) immediately cause the part opened or broken up to be fenced and guarded;

(b) before sunset cause a light, sufficient for the warning of passengers, to be set up and maintained until sunrise against or near the part opened or broken up;

(c) with all reasonable speed fill in the ground and reinstate and make good the soil or pavement, or the sewer, drain or tunnel, opened or broken up, and carry away the rubbish occasioned by such opening or breaking up; and,

(d) after reinstating and making good the soil or pavement, or the sewer, drain or tunnel, broken or opened up, keep the same in good repair for three months and for any further period, not exceeding nine months, during which subsidence continues.

(2) Where any person fails to comply with any of the provisions of sub-section (1), the person having the control or management of the street, railway, tramway, sewer, drain or tunnel in respect of which the default has occurred, may cause to be executed the work which the defaulter has delayed or omitted to execute, and may recover from him the expenses incurred in such execution.

(3) Where any difference or dispute arises as to the amount of the expenses incurred under sub-section (2), the matter shall be determined by arbitration.

Aërial lines.

17. (1) Nothing in this Part shall be deemed to authorize or empower a licensee to place any aërial line along or across any street unless and until the Local Government, after consulting the local authority, has communicated to him a general approval in writing of the methods of construction which he proposes to adopt:

Provided that the communication of such approval shall in no way relieve the licensee of his obligations with respect to any other consent required by or under this Act.

(2) Where any aërial line has been placed or maintained by a licensee in breach of the provisions of sub-section (1), the Local Government may require the licensee forthwith to remove the same, or may cause the same to be removed and recover from the licensee the expenses incurred in such removal.

(3) Where any tree, standing or lying near an aërial line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of energy, a Magistrate of the first class may, on the application of the licensee, cause the tree to be removed or otherwise dealt with as he thinks fit.

(4) When disposing of an application under sub-section (3), the Magistrate shall, in the case of any tree in existence before the placing of the aërial line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

Compensation for damage.

18. (1) A licensee shall, in exercise of any of the powers conferred by or under this Act, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage caused by him or by any one employed by him.

(2) Where any difference or dispute arises as to the amount or the application of such compensation, the matter shall be determined by arbitration.

Power for licensee to enter premises for ascertaining energy consumed, or to remove fittings or other apparatus of licensee.

19. (1) A licensee or any person duly authorized by a licensee may at any reasonable time, and on informing the occupier of his intention, enter any premises to which energy is or has been supplied by him, for the purpose of—

(a) inspecting and testing the electric supply-lines, meters, fittings, works and apparatus for the supply of energy belonging to the licensee;

(b) ascertaining the quantity of energy consumed or supplied; or

(c) removing, where a supply of energy is no longer required, or where the licensee is authorized to take away and cut off such supply, any electric supply-lines, fittings, works or apparatus belonging to the licensee.

(2) A licensee or any person authorized as aforesaid may also, in pursuance of a special order in this behalf made by the District Magistrate, or, in a Presidency-town, by the Commissioner of Police, and after giving not less

The Indian Electricity Act, 1903.

(Part II.—Supply of Energy to the Public.—Sections 20-25.)

than twenty-four hours' notice in writing to the consumer, enter any premises to which energy is or has been supplied, or is to be supplied, by him, for the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of energy belonging to the consumer.

Restrictions on licensee's controlling or interfering with use of energy.

20. (*1*) A licensee shall not be entitled to prescribe any special form of appliance for utilizing energy supplied by him, or, save as provided by section 23, sub-section (*2*), or by section 30, sub-section (*6*), in any way to control or interfere with the use of such energy:

Provided that no person may adopt any form of appliance, or use the energy supplied to him, so as unduly or improperly to interfere with the supply by the licensee of energy to any other person.

(*2*) Where any difference or dispute arises under this section, the matter shall be determined by arbitration.

Obligation on licensee to supply energy.

21. Where energy is supplied by a licensee, every person within the area of supply shall, except in so far as is otherwise provided by the terms and conditions of the license, be entitled, on application, to a supply on the same terms as those on which any other person in the same area is entitled in similar circumstances to a corresponding supply:

Provided that no person having a private generating plant shall be entitled to demand a connection with the mains of the licensee in order to use the energy of the licensee only in the event of accident to the plant of such person.

Maximum electrical power.

22. (*1*) The electrical power at which any consumer shall be entitled to be supplied by a licensee, shall not exceed what is necessary for the maximum consumption of energy on his premises:

Provided that, where a consumer has required a licensee to supply him at a specified maximum power, he shall not be entitled to alter that maximum except after one month's notice in writing to the licensee, and the licensee may recover from the consumer any expenses incurred by him by reason of the alteration in respect of the service-lines by which energy is supplied to the consumer's premises, or of any fittings or apparatus of the licensee upon those premises.

(*2*) Where any difference or dispute arises between a consumer and a licensee as to the power at which energy is to be supplied under sub-section (*1*) or as to the amount of the expenses incurred under the proviso thereto, the matter shall be determined by arbitration.

Charges for energy to be made without undue preference.

23. (*1*) A licensee shall not, in making any agreement for the supply of energy, show undue preference to any person, but may, save as aforesaid, make such charges for the supply of energy as may be agreed upon, not exceeding the limits imposed by his license, and may allow rebates thereon according to the quantity supplied, either in relation to the maximum power to which the consumer is entitled under section 22, or to the total quantity, or to the time at which the supply is needed.

(*2*) Notwithstanding anything in sub-section (*1*), the licensee may, with the consent of the Local Government, charge at one rate for the supply of energy for lighting purposes, and at other rates for the supply of energy for purposes other than lighting; and no person shall be entitled to utilize for one purpose energy supplied to him at a lower rate for any other purpose.

(*3*) Where any difference or dispute arises between a consumer and a licensee as to any matter provided for in sub-section (*1*) or sub-section (*2*), the matter shall be determined by arbitration.

Discontinuance of supply to consumer neglecting to pay charge.

24. Where any person neglects to pay any charge for energy or any other sum due from him to a licensee in respect of the supply of energy to him, the licensee may, after giving not less than seven clear days' notice in writing to such person and without prejudice to his right to recover such charge or other sum by suit, cut off the supply and for that purpose cut or disconnect any electric supply-line or other works through which energy may be supplied, and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and re-connecting the supply, are paid, but no longer:

Provided that the provisions of this section shall not apply in any case in which any difference, or dispute of the nature described in section 30, sub-section (*7*), has been referred for determination by an Electric Inspector or other person as therein provided until such Inspector or other person has given his decision.

Exemption of electric supply-lines, or other apparatus from attachment in certain cases.

25. Where any electric supply-lines, meters, fittings, works or apparatus belonging to a licensee are placed in or upon any premises, not being in the possession of the licensee, for the purpose of supplying energy, such electric supply-lines, meters, fittings, works and apparatus shall not be liable to be taken in execution under any process of any Civil Court or in any proceedings in insolvency against the person in whose possession the same may be.

The Indian Electricity Act, 1903.

(Part II.—Supply of Energy to the Public.—Sections 26-29.)

Protection of railways and canals, docks, wharves and piers.

26. No licensee shall, in exercise of any of the powers conferred by or under this Act, in any way injure any railway, tramway or canal or (in cases where the licensee is not a local authority) any dock, wharf or pier vested in or controlled by a local authority or obstruct or interfere with the traffic on any railway, tramway or canal.

Protection of telegraphic, telephonic and electric-signalling lines.

27. (*1*) Nothing in this Act shall be deemed to authorize or empower any licensee to lay down any underground, or place any aërial, electric supply-line or other works, or to make any alterations in any telegraph line, maintained or worked by the Government or by any person licensed under the Indian Telegraph Act, 1885, without the previous sanction of the telegraph-authority, to whom the licensee shall give not less than one month's notice in writing of his intention, specifying the course of the works or alterations proposed, the manner in which the works are to be utilized, the amount and nature of the energy to be transmitted, and the extent to, and manner in, which (if at all) earth returns are to be used; and the licensee shall conform with such reasonable requirements, either general or special, as may be laid down by the telegraph-authority for preventing any telegraph line from being injuriously affected by such works or alterations:

XIII of 1885.

Provided that, in case of emergency (which shall be stated by the licensee in writing to the telegraph-authority) arising from defects in any of the electric supply-lines or other works of the licensee, the licensee shall be required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

(*2*) Every licensee shall take all reasonable precautions in constructing, laying down and placing his electric supply-lines and other works and in working his undertaking, so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephonic or electric-signalling communication, or the currents in such wire or line.

(*3*) Where any difference or dispute arises between the licensee and the telegraph-authority or any person licensed under the Indian Telegraph Act, 1885, as to whether the licensee has constructed, laid down or placed his electric supply-lines or other works, or made alterations in a telegraph line, or worked his undertaking, in contravention of sub-section (*1*), or sub-section (*2*), or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to the Governor General in Council; and the Governor General in Council, unless he is of opinion that the wire or line has been placed in unreasonable proximity to the electric supply-lines or works of the licensee after the construction of such lines or works, may direct the licensee to make such alterations in, or additions to, his system as may be necessary in order to comply with the provisions of this section, and the licensee shall make such alterations or additions accordingly:

XIII of 1885.

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric supply-line, so long as the course of the electric supply-line and the amount and nature of the current transmitted thereby are not altered.

(*4*) Where a licensee makes default in complying with the requirements of this section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Explanation.—For the purposes of this section, a telegraph-line shall be deemed to be injuriously affected by a work if telegraphic communication by means of such line is, whether through induction or otherwise, prejudicially interfered with by such work or by any use made thereof.

Notice of and inquiry into accidents.

28. (*1*) Every licensee shall, within twenty-four hours of the occurrence, send to the Local Government and to the District Magistrate, or in a Presidency-town, to the Commissioner of Police, notice in writing of any accident by explosion, fire, electric shock or fall of an aërial line and also of any other accident resulting or likely to have resulted in loss of life or personal injury in any part of the licensee's works or circuits, or in connection with the same, and also notice of any loss of life or personal injury actually occasioned by any such accident.

(*2*) The Local Government may also, if it thinks fit, appoint any Electric Inspector or other competent person to inquire and report as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with a licensee's works, or as to the manner in, and extent to, which the provisions of the license and of this Act, so far as these provisions affect the safety of the public, have been complied with by the licensee.

Power for Local Government to interfere in certain cases of default by licensee.

29. If at any time it is established, to the satisfaction of the Local Government,—

(*a*) that a licensee is supplying energy otherwise than by means of a system which has been approved of by the Local Government or (except in accordance

The Indian Electricity Act, 1903.

(Part II.—Supply of Energy to the Public.—Section 30.)

with the provisions of his license) has permitted any part of his circuits to be connected with earth, or

(*b*) that any electric supply-lines or works of a licensee are defective ; or

(*c*) that any works of a licensee or his supply of energy are or is attended with danger to the public safety ;

the Local Government may, by order in writing, specify the matter complained of and require the licensee to remedy it in such manner as shall be specified in the order, and may also in like manner forbid the use of any electric supply-line or works until the order is complied with or for such time as is specified in the order.

30. (*1*) In the absence of an agreement to the contrary, the amount of energy supplied to a consumer or the electrical quantity contained in the supply (such amount or quantity being hereinafter referred to as "the value of the supply") shall be ascertained by means of a duly certified meter, and the licensee shall, if required by the consumer, cause the consumer to be supplied with such a meter :

Meters.

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter.

(*2*) Where the consumer so enters into an agreement for the hire of a meter, the licensee shall keep the meter in proper order for correctly registering the value of the supply, and, in default of his doing so, the consumer shall, for so long as the default continues, cease to be liable to pay for the hire of the meter.

(*3*) Where the meter is the property of the consumer, he shall keep the meter in proper order for correctly registering the value of the supply, and, in default of his doing so, the licensee may, for so long as the default continues cease to supply energy through the meter.

(*4*) The licensee or any person duly authorized by the licensee shall, at any reasonable time and on informing the consumer of his intention, have access to, and be at liberty to take off, remove, test, inspect and replace, any meter whereby the value of the supply is ascertained or to be ascertained ; and, except where the meter is so hired as aforesaid, all reasonable expenses of, and incidental to, such taking off, removing, testing, inspecting and replacing, and the procuring the meter to be again duly certified, where that is thereby rendered necessary, shall, if the meter is found to be otherwise than in proper order, be recovered from the consumer ; and where any difference or dispute arises as to the amount of such reasonable expenses, the matter shall be determined by arbitration :

Provided that the licensee shall not be at liberty to take off or remove any such meter if any difference or dispute of the nature described in sub-section (*7*) has arisen until the matter has been determined as therein provided.

(*5*) A consumer shall not connect any meter, whereby the value of the supply is ascertained or to be ascertained with any electric supply-line through which energy is supplied by a licensee, or disconnect the same from any such electric supply-line, without giving to the licensee not less than forty-eight hours' notice in writing of his intention.

(*6*) In addition to any meter which may be placed upon the premises of a consumer to ascertain the value of the supply, the licensee may place upon such premises such meter or other apparatus as he may think fit for the purpose of ascertaining or regulating either the amount of energy supplied to the consumer, or the number of hours during which the supply is given, or the maximum power taken by the consumer, or any other quantity or time connected with the supply :

Provided that the meter or apparatus shall be of a construction and pattern approved of by the Local Government, and shall be fixed and connected with the service-lines in a manner so approved, and shall be supplied and maintained entirely at the cost of the licensee, and shall not, in the absence of an agreement to the contrary, be placed otherwise than between the mains of the licensee and the consumer's terminals.

(*7*) Where any difference or dispute arises as to whether any meter, whereby the value of the supply as to pressure or quantity is ascertained or to be ascertained, is or is not in proper order for correctly registering the value of the supply, or as to whether such value has in any case been correctly registered by the meter, the matter shall be determined, upon the application of either party, by an Electric Inspector or by a competent person specially appointed by the Local Government in this behalf ; and, where the meter has, in the opinion of such Inspector or person, ceased to work for a period not exceeding one month, such Inspector or person shall estimate the value of the supply for such period on the basis of the value of the previous supply ; and the decision of such Inspector or person shall be final, and the costs of or incidental to such determination shall be recoverable as such Inspector or person may direct : but, save as aforesaid, the register of the meter, whereby the value of the supply is ascertained, shall, in the absence of fraud, be conclusive proof of such value.

Explanation.—A meter shall be deemed to be "duly certified" if it is certified by an Electric Inspector or by a competent person appointed by the Local Government in this behalf to be a correct meter, and to be of a construction and pattern approved by the Local Government, and to have been fixed and connected with the electric supply-lines in a manner so approved :

The Indian Electricity Act, 1903.

(Part III.—Restrictions on Use of Energy not supplied under Part II.—Section 31.—Part IV.—General—Sections 32-33.)

Provided that, where any alteration is made in a duly certified meter, or where any such meter is unfixed or disconnected from the electric supply-lines, it shall cease to be a duly certified meter unless and until it is again duly certified as aforesaid.

PART III.

RESTRICTIONS ON USE OF ENERGY NOT SUPPLIED UNDER PART II.

Use of energy not supplied under Part II to be subject to rules.

31. (*1*) No person shall, for any purpose, in any street, or in any place in which one hundred or more persons are likely ordinarily to be assembled or which is a factory within the meaning of the Indian Factories Act, **1881**, use energy which is not supplied to him under Part II, without giving not less than seven clear days' notice in writing of his intention to the District Magistrate or, in a Presidency-town, to the Commissioner of Police, and complying with such rules as may be made in this behalf under section 33:

XV of 1881

Provided that nothing in this section shall apply to any railway or tramway subject to the provisions of the Indian Railways Act, 1890.

X of 1890.

Provided also that the Local Government may, by general or special order and subject to such conditions and restrictions as may be specified therein, exempt any person or class of persons using energy on premises upon or in connection with which it is generated, from the application of this section or of any such rule as aforesaid.

(*2*) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are likely ordinarily to be assembled, the matter shall be referred to the Local Government, and the decision of the Local Government thereon shall be final.

PART IV.

GENERAL.

Advisory Boards.

32. (*1*) The Governor General in Council may, for the whole or any part of British India, and each Local Government, with the previous sanction of the Governor General in Council, may, for the whole or any part of the Province, by notification in the Gazette of India or the local official Gazette, as the case may be, constitute an Advisory Board.

(*2*) Every such Board shall consist of—

(*a*) A Chairman and two other members, or, where the Board is to consist of only three members, one other member nominated by the Governor General in Council or the Local Government as the case may be, and

(*b*) Two members, or, where the Board is to consist of only three members, one member nominated by such local authorities, Chambers of Commerce or other Associations as the Governor General in Council or the Local Government, as the case may be, may by rule prescribe.

(*3*) The Governor General in Council or the Local Government, as the case may be, may give directions as to the payment of travelling expenses incurred by any member of an Advisory Board in the performance of his duty as such member.

Power for Government to make rules.

33. (*1*) The Governor General in Council may, for the whole or any part of British India, and each Local Government, with the previous sanction of the Governor General in Council, may, for the whole or any part of the Province, make rules to regulate the generation, supply and use of energy, and, generally, to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the form of applications for licenses and the payments to be made in respect thereof;

(*b*) regulate the publication of notices;

(*c*) prescribe the manner in which, and the time within which, representations or objections with reference to any application under Part II are to be made;

(*d*) provide for the preparation and submission of accounts by licensees in a specified form;

(*e*) provide for the securing of a regular, constant and sufficient supply of energy by licensees to consumers and for the testing at various parts of the system of the regularity and sufficiency of such supply and for the examination of the records of such test by consumers;

(*f*) provide for the protection of persons and property from injury by reason of contact with, or the proximity of, or by reason of the defective or dangerous condition of, any appliance or apparatus used in the generation, supply or use of energy;

(*g*) for the purposes of any electric tramway, regulate the employment of insulated returns, or of uninsulated metallic returns of low resistance, in order to prevent fusion or injurious electrolytic action of or on gas or water pipes or other metallic pipes, structures or substances, and to minimise, as far as is reasonably

The Indian Electricity Act, 1903.

(Part IV.—General.—Sections 34-37.)

practicable, injurious interference with the electric wires, supply-lines and apparatus of parties other than the owners of the tramway, or with the currents therein, whether the earth is used as a return or not; and for the like purposes apply or adapt any of the provisions of Part II;

(*h*) provide for preventing telegraph lines and magnetic observatories or laboratories from being injuriously affected by any appliance or apparatus used in the generation, supply or use of energy;

(*i*) provide for the appointment of Electric Inspectors by the Local Government, and, with the sanction of the Local Government, by local authorities, and prescribe the qualifications to be required of such Inspectors, and their remuneration and duties;

(*j*) provide for the appointment of members of Advisory Boards and define the duties and regulate the procedure of such Boards;

(*k*) authorize any Electric Inspector or other officer of a specified rank and class to enter, inspect and examine any place, carriage or vessel in which he has reason to believe any appliance or apparatus used in the generation, supply or use of energy to be, and to carry out tests therein, and to prescribe the facilities to be given to such Inspectors or officers for the purposes of such examinations and tests; and

(*l*) authorize and regulate the levy of fees for any such testing or inspection and, generally, for the services of Electric Inspectors under this Act.

(*3*) In making any rule under this Act, the Governor General in Council or the Local Government, as the case may be, may direct that every breach thereof shall be punishable with fine which may extend to one hundred rupees, and, in the case of a continuing breach, with a further daily fine which may extend to fifty rupees.

Further provisions respecting rules.

34. (*1*) The power to make rules under section 33 shall be subject to the condition of the rules being made after previous publication.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897, as that after which a draft of rules proposed to be made under this section will be taken into consideration shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

X of 1897.

(*3*) Where an Advisory Board has been constituted under section 32 by the Governor General in Council or by the Local Government, any rule to be made under this Act shall, before it is published for criticism under sub-section (*2*), be referred, in the case of a rule to be made by the Governor General in Council, to the Advisory Board constituted by the Governor General in Council, and, in the case of a rule to be made by the Local Government, to an Advisory Board constituted by such Government, and the rule shall not be so published until such Board has reported as to the expediency of making the proposed rule and as to the suitability of its provisions.

(*4*) All rules made under section 33 shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted in this Act.

Exercise in certain cases of powers of telegraph-authority.

35. Notwithstanding anything in sections 12 to 18, the Governor General in Council may, for the placing of appliances and apparatus for the transmission of energy for any purpose, confer upon any public officer or licensee any of the powers which the telegraph-authority possesses under, and subject to the provisions of, the Indian Telegraph Act, 1885, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained. XIII of 1885.

Arbitration.

36. Where any matter is, by or under this Act, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided in the license of a licensee, be determined by such person or persons as the Governor General in Council or the Local Government may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions of the Indian Arbitration Act, 1899. IX of 1899.

Service of notices, orders or documents.

37. (*1*) Every notice, order or document by or under this Act required or authorized to be addressed to any person may be served, by post or left,—

(*a*) where the Government is the addressee, at the office of the Secretary in the Public Works Department:

(*b*) where a local authority is the addressee, at the office of the local authority:

(*c*) where a company is the addressee, at the registered office of the company:

(*d*) where any other person is the addressee, at the usual or last known place of abode or business of the person.

The Indian Electricity Act, 1903.

(*Part IV.—General.—Sections 38-39.*)

(*2*) Every notice, order or document by or under this Act required or authorized to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

Recovery of sums recoverable under certain provisions of Act.

38. Every sum declared to be recoverable by section 5, clause (*f*), section 6, section 14, sub-section (*2*), clause (*h*), section 16, sub-section (*2*), section 17, sub-section (*2*) or sub-section (*4*), section 22, sub-section (*1*), or section 30, sub-section (*4*) or sub-section (*7*), and every fee leviable under this Act may be recovered, on application to a Magistrate having jurisdiction where the person liable to pay the same is for the time being resident, by the distress and sale of any moveable property belonging to such person.

Penalties.

39. (*1*) Whoever dishonestly abstracts, consumes or uses any energy, shall be deemed to have committed theft within the meaning of the Indian Penal Code.

XLV of 1860.

(*2*) Whoever maliciously causes energy to be wasted or diverted, or, with intent to cut off the supply of energy, cuts or injures, or attempts to cut or injure, any electric supply-line or works, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

(*3*) Whoever,—

(*a*) being a licensee, without the previous sanction of the Local Government, supplies energy or lays down or places any electric supply-line or works outside the area of supply; or,

(*b*) fails to prevent any variation of pressure exceeding the limits of variation prescribed by the rules made under this Act; or,

(*c*) makes default in complying with any order issued to him by the Local Government under section 29;

shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence or default, with a daily fine which may extend to one hundred rupees.

(*4*) Whoever uses energy in contravention of the provisions of section 31 shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees.

(*5*) Whoever—

(*a*) connects any meter, whereby the value of the supply is ascertained or to be ascertained, with any electric supply-line through which energy is supplied by a licensee, or disconnects the same from any such electric supply-line, without giving to the licensee forty-eight hours' notice in writing of his intention; or

(*b*) lays, or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee, without such licensee's consent; or

(*c*) maliciously injures any meter, whereby the value of the supply to a consumer by a licensee is ascertained; or

(*d*) improperly uses the energy of a licensee;

shall be punishable with fine which may extend to one hundred rupees, and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees.

(*6*) Whoever maliciously extinguishes any electric light supplied for the public use, shall be punishable with fine which may extend to two hundred rupees.

(*7*) Whoever negligently causes energy to be wasted or diverted, or negligently breaks, throws down or damages any electric supply-line, post, pole or lamp or other apparatus connected with the supply of energy, shall be punishable with fine which may extend to fifty rupees.

(*8*) Whoever, in any case not already provided for by this section, makes default in complying with any of the provisions of this Act, or with any order issued under it, or, in the case of a licensee, with any of the conditions of his license, shall be punishable with fine which may extend to one hundred rupees, and, in the case of a continuing default, with a daily fine which may extend to twenty rupees:

Provided that, where a person has made default in complying with any of the provisions of sections 13, 14, 15 and 27, as the case may be, he shall not be so punishable if the Court is of opinion that the case was one of emergency and that the offender complied with the said provisions as far as was reasonable in the circumstances.

(*9*) The penalties imposed by this section shall be in addition to, and not in derogation of, any liability in respect of the payment of compensation or, in the case of a licensee, the revocation of his license, which the offender may have incurred.

(*10*) The provisions of sub-sections (*1*), (*2*), (*5*), (*6*) and (*7*) shall, so far as they are applicable, be deemed to apply also when the acts

The Indian Electricity Act, 1903.

(Part IV.—General.—Sections 40-42. The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

made punishable thereunder are committed in the case of energy supplied by or of works belonging to the Government.

Functions of Local Government under Part II in certain places to be performed by Governor General in Council.

40. The powers and duties of the Local Government under Part II shall, when the energy is to be supplied within the limits of any cantonment or of any fortress, arsenal, factory, dockyard, camp or of any building or place in the occupation of Government for naval or military purposes, be exercised and performed by the Governor General in Council.

Protection for acts done in good faith.

41. No suit, prosecution or other proceeding shall lie against any public officer, or any servant of a local authority, for anything done, or in good faith purporting to be done, under this Act.

XIII of 1887. Ben. Act II of 1895. Ben. Act I of 1902.

Repeals and savings.

42. (*1*) The Electricity Act, 1887, the Calcutta Electric Lighting Act, 1895, and the Howrah Bridge Electric Lighting Act, 1902, are hereby repealed:

Provided that nothing in the foregoing provisions of this section shall be deemed to affect the terms of any license granted before the commencement of this Act under the Calcutta Electric Lighting Act, 1895, or any provisions of that Act or any rule made thereunder having reference to any such license.

(*2*) Nothing in this Act shall be deemed to affect the terms of any other license which has been granted or of any agreement which has been made by or with the sanction of the Government for the supply or use of electricity before the commencement of this Act.

THE SCHEDULE.

PROVISIONS TO BE DEEMED TO BE INCORPORATED WITH, AND TO FORM PART OF, EVERY LICENSE GRANTED UNDER PART II.

[*See section 4, sub-section (1), clause (f).*]

Security and accounts.

Security for execution of works of licensee not being local authority.

I. Where the licensee is not a local authority, the following provisions as to giving security shall apply, namely :—

(*a*) The licensee shall, within a period of six months after the commencement of the license and before exercising any of the powers by the license conferred on him in relation to the execution of works, show, to the satisfaction of the Local Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed upon him by the license throughout the area of supply.

(*b*) The licensee shall also, within six months after the commencement of the license or within such extended period as may be approved by the Local Government and before exercising any of the powers conferred on him in relation to the execution of works, deposit or secure, to the satisfaction of the Local Government, such sum if any as may be fixed by the license or, if not so fixed, by the Local Government.

(*c*) The said sum deposited or secured by the licensee under the provisions of this clause shall be repaid or released to him in equal moieties, when and so soon as it may be certified by an officer appointed by the Local Government in this behalf that amounts equal to the sums so to be repaid or released have been expended by the licensee upon works executed for the purposes of the undertaking, or that distributing mains have been duly laid down by the licensee in every street or part of a street in which he is required to lay them down within a limited time, or shall be repaid or released at such earlier dates, and by such instalments, as may be approved by the Local Government.

(*d*) Where the area of supply includes two or more local areas for which local authorities are constituted, the Local Government may require the deposit to be made or the security to be given in respect of such local areas severally, and in that case the deposit or security shall be repaid or released separately as to each local area.

Audit of accounts of licensee not being local authority.

II. Where the licensee is not a local authority, the following provisions as to the audit of accounts shall apply, namely :—

(*a*) The annual statement of accounts of the undertaking shall, before being rendered to the Local Government under section 11 of the Indian Electricity Act, 1903, be examined and audited by such person as the Local Government may appoint in this behalf, and the remuneration of the auditor shall be such as the Local Government may direct, and his remuneration and all expenses incurred by him in or about the execution of his duties, to such an amount as the Local Government shall approve, shall be paid by the licensee on demand.

The Indian Electricity Act, 1903.

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

(*b*) The licensee shall afford to the auditor, his clerks and assistants, access to all such books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall, when required, furnish to him and them all vouchers and information requisite for that purpose, and afford to him and them all facilities for the proper execution of his and their duty.

(*c*) The audit shall be made and conducted in such manner as the Local Government may direct.

(*d*) Any report made by the auditor, or such portion thereof as the Local Government may direct, shall be appended to the annual statement of accounts of the licensee, and shall thenceforth form part thereof.

Separate accounts.

III. The licensee shall, unless the Local Government otherwise directs, at all times keep the accounts of the capital employed for the purposes of the undertaking distinct from the accounts kept by him of any other undertaking or business.

Nature and mode of supply.

Systems of supply.

IV. Energy shall be supplied by the licensee only by means of some system approved in writing by the Local Government, and save as otherwise provided by rules under the Indian Electricity Act, 1903, the licensee shall not permit any part of any circuit to be connected with earth unless the connection is for the time being approved by the Local Government, with the concurrence of the telegraph-authority.

Provisions as to electric railways and tramways.

V. Where and in so far as energy is supplied to a tramway for purposes of electric traction, the following provisions shall apply, namely :—

(*a*) The licensee shall employ either insulated metallic returns, or uninsulated metallic returns of low resistance, save in the case of vehicles in which the motive power is entirely self-contained.

(*b*) The licensee shall take all reasonable precautions in constructing, placing and maintaining his electric supply-lines and circuits, and other works of all descriptions, and also in working his undertaking, so as not injuriously to affect, by fusion or electrolytic action, any gas or water pipes, or other metallic pipes, structures or substances.

Compulsory works.

Power of Local Government to order licensee to lay down distributing mains.

VI. The licensee shall, within a period of two years after the commencement of his license, lay down suitable and sufficient distributing mains for the purposes of general supply throughout such streets or parts of streets as the Local Government may, by order in writing issued within six months of the commencement of the license, direct.

Provisions as to laying electric supply-lines under special agreement.

VII. Every licensee shall, not less than one month before commencing to lay in any street any electric supply-line for the supply of energy to any particular consumer, and not for the purposes of general supply, serve upon the local authority (if any) and upon the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and termination of the electric supply-line so to be laid, a notice stating that the licensee intends to lay the electric supply-line, and intimating that, if within the said period any two or more of such owners or occupiers require in accordance with the provisions of the license that a supply shall be given to their premises, the necessary distributing main will be laid by the licensee at the same time as the electric supply-line intended for the particular consumer.

Provisions as to laying down of further distributing mains.

VIII. (*1*) Where, after the expiration of eighteen months from the commencement of the license, a requisition is made by six or more owners or occupiers of premises in or upon any street or part of street within the area of supply or by the Local Government or a local authority charged with the public lighting thereof, requiring the licensee to provide and lay down distributing mains for the purposes of general supply throughout such street or part thereof, the licensee shall comply within six months with the requisition, unless,—

(*a*) where it is made by such owners or occupiers as aforesaid, the owners or occupiers making it do not, within fourteen clear days after the service on them by the licensee of a notice in writing in this behalf, tender to the licensee a written contract, duly executed and with sufficient security, binding themselves to take, or guaranteeing that there shall be taken, a supply of energy for not less than three years to such amount as will in the aggregate produce annually, at the current rates charged by the licensee, a reasonable return to the licensee ; or,

The Indian Electricity Act, 1903.

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

(*b*) where it is made by the Local Government or a local authority, the Local Government or local authority, as the case may be, does not, within the like period, tender a like agreement binding itself to take a supply of energy for not less than three years for the public lighting of such street or part thereof.

(*2*) Where any difference or dispute arises between the licensee, and such owners, occupiers or local authority as to the sufficiency of the security offered under this clause, or as to the amount of energy to be taken or guaranteed as aforesaid, the matter shall be referred to the Local Government and either decided by it or, if the Local Government so directs, determined by arbitration.

(*3*) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(*4*) Every requisition under this clause shall be in a form to be prescribed by rules under the Indian Electricity Act, 1903; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

IX. (*1*) Where a requisition is made by the owners or occupiers of any premises situate within one hundred yards from any distributing main in which the licensee is required to maintain a supply of energy for the purposes of general supply, requiring the licensee to supply energy for such premises, the licensee shall supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy in accordance with the requisition, unless the person making it fails, within fourteen days after the service on him by the licensee of a notice in writing in this behalf, to tender to the licensee a written contract, duly executed and with sufficient security, binding himself to take a supply of energy for not less than two years to such amount as will produce, at current rates charged by the licensee, a reasonable return to the licensee :

Requisition for supply to owners or occupiers in vicinity.

Provided, first, that the cost of so much of any electric supply-line as may be laid for the purposes of the supply upon the property in respect of which the requisition is made, and of so much of any electric supply-line as it may be necessary for the said purposes to lay for a greater distance than one hundred feet from the licensee's distributing main, although not on that property, shall, if the licensee so requires, be paid by the owner or occupier making the requisition :

Provided, secondly, that the licensee may, after he has furnished a supply of energy for any premises, by notice in writing require the owner or occupier within seven days after the date of the service of the notice, to give him security for the payment of all money which may become due to him in respect of the supply, in case the owner or occupier has not already given that security, or in case any security given has become invalid or is insufficient; and, if the owner or occupier fails to comply with the terms of the notice, the licensee may discontinue to supply energy for such premises so long as such failure continues :

Provided, thirdly, that if the owner or occupier of any such premises as aforesaid adopts any form of lamp or burner, or uses the energy supplied to him by the licensee for any purposes, or deals with it in any manner, so as to interfere unduly or improperly with the efficient supply of energy to any other person by the licensee, or fails to keep his meter in proper order, the licensee may discontinue the supply of energy for such premises so long as such lamp or burner is so adopted, or the energy is so used or dealt with, or the meter is not kept in proper order, as the case may be :

Provided, fourthly, that the licensee shall not be bound to furnish a supply of energy to any premises if an Electric Inspector or other competent person appointed by the Local Government is satisfied that the electric line, fittings, works and apparatus therein are not in good order and condition and are likely to affect injuriously the use of energy by the licensee or by other persons :

Provided, fifthly, that in the event of any alterations of, or additions to, any electric wires fittings, works or apparatus within such premises as aforesaid, all such alterations or additions shall be notified to the licensee by the owner or occupier before being connected to the source of supply, with a view to their being examined and tested : and

Provided, sixthly, that, in the event of any requisition being made for a supply of energy from any distributing main of which the licensee can prove, to the satisfaction of an officer appointed by the Local Government in this behalf,—

(*a*) that it is already loaded up to its full-current-carrying capacity, or

(*b*) that, in case of a larger amount of current being transmitted by it, the loss of pressure will seriously affect the efficiency of the supply to other consumers in the vicinity,

the licensee may refuse to accede to the requisition for such reasonable period, not exceeding six months, as such officer may think sufficient for the purpose of amending the distributing main or laying down a further distributing main,

The Indian Electricity Act, 1903.

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

(2) Where any difference or dispute arises as to the sufficiency of the security offered by such owner or occupier or as to the improper use of energy, or as to any alleged defect in any wires, fittings, works or apparatus, or as to any alleged excess or defect in the pressure or quantity of the energy supplied, the matter shall be referred to the Local Government and either decided by it or, if the Local Government so directs, determined by arbitration.

(3) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(4) Every requisition under this clause shall be in a form to be prescribed by rules under the Indian Electricity Act, 1903; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

Supply for public lamps.

X. (1) Where a requisition is made by the Local Government or by a local authority requiring the licensee to supply for a period of not less than one year energy for any public lamps within the distance of one hundred yards from any distributing main in which the licensee is required to maintain a supply of energy for the purposes of general supply, the licensee shall supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy for such lamps in such quantities as the Local Government or the local authority, as the case may be, may require.

(2) The provisions contained in the first, fourth, fifth and sixth provisos to sub-clause (1) and in sub-clause (2) of Clause IX shall, so far as may be, apply to every case in which a requisition for the supply of energy is made under this clause as if the Local Government or local authority were an owner or occupier within the meaning of those provisions.

Charges.

Methods of charging.

XI. In the absence of an agreement to the contrary, the licensee may charge for energy supplied by him to any consumer—

(a) by the actual amount of energy so supplied; or

(b) by the electrical quantity contained in the supply; or

(c) by such other method as may be approved by the Local Government:

Provided, first, that, where the licensee charges by any method so approved by the Local Government, any consumer who objects to that method may, by not less than one month's notice in writing, require the licensee to charge him, at the licensee's option, either by the actual amount of energy supplied to him or by the electrical quantity contained in the supply, and thereafter the licensee shall not, except with the consent of the consumer, charge him by another method:

Provided, secondly, that, before commencing to supply energy through any distributing main for the purposes of general supply, the licensee shall give notice, by public advertisement, of the method by which he proposes to charge for energy so supplied; and, where the licensee has given such notice, he shall not be entitled to change that method of charging without giving not less than one month's notice in writing of such change to the Local Government, to the local authority (if any) concerned, and to every consumer of energy who is supplied by him from such distributing main:

Provided, thirdly, that, if the consumer is provided with a duly certified meter for the purposes of ascertaining the value of the supply and the licensee changes the method of charging for the energy supplied by him from the distributing main, the licensee shall bear the expense of providing a new duly certified meter if such is necessary for the purpose of ascertaining the value of the supply according to the new method of charging.

Maximum charges.

XII. The price charged by the licensee for energy supplied by him shall not exceed the maximum fixed by his license, or, in the case of a method of charge approved by the Local Government, such maximum as the Local Government shall fix on approving the method:

Provided that, if, at any time after the expiration of seven years from the commencement of the license, the Local Government considers or is satisfied that the maximum so fixed or approved as aforesaid should be altered, it may, after such inquiry (if any) as it thinks fit, make an order accordingly, which shall have effect from such date as may be mentioned therein:

Provided, also, that where an order in pursuance of the foregoing proviso has been made, no further order altering the maximum fixed thereby shall be made until the expiration of another period of seven years.

Charge for supply for public lamps.

XIII. The price to be charged by the licensee and to be paid to him for energy supplied for the public lamps, and the mode in which those charges are to be ascertained, shall be settled by agreement between the licensee and the Local Government or the local authority, as the case may be, and, where any difference or dispute arises the matter shall be determined by arbitration.

The Indian Electricity Act 1903.

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

Testing and inspection.

Licensee to establish testing station and keep instruments for testing.

XIV. The licensee shall, at any place within reasonable distance from any main, establish at his own cost and keep in proper condition such number of testing stations as the Local Government may direct for the purpose of testing the supply of energy in the main, and shall supply and keep in proper condition thereat, and on all premises from which he supplies energy, such instruments for testing as the Local Government may approve, and shall connect all such testing stations, by means of proper and sufficient electric supply-lines, with the distributing mains, and shall supply energy to each testing station for the purpose of testing.

Licensee to give facilities for testing.

XV. The licensee shall afford all facilities for inspection and testing of his generating, converting and testing stations and all other parts of his electric system and for the reading, testing and inspection of instruments.

Representation of licensee at testings.

XVI. The licensee may, on each occasion of the testing of any distributing main or electric supply-line or the testing or inspection of any instruments, be represented by an agent who may be present but shall not interfere with the testing or inspection.

Testing of mains.

XVII. On the occasion of the testing of any main of the licensee by an Electric Inspector, reasonable notice thereof shall be given to the licensee, and the testing shall be carried out at such suitable hours as, in the opinion of the Electric Inspector, will least interfere with the supply of energy by the licensee, and in such manner as the Electric Inspector may think fit; but, except under the provisions of an order made in each case in that behalf by the Local Government, the Electric Inspector shall not be entitled to have access to, or interfere with, the mains of the licensee at any points other than those at which the licensee has reserved for himself access to the same :

Provided that the licensee shall not be held responsible for any interruption in the supply of energy which may be occasioned by or required by the Electric Inspector for the purpose of any such testing as aforesaid:

Provided, also, that the testing shall not be made in regard to any particular portion of a main oftener than once in any three months, unless in pursuance of an order made in each case in that behalf by the Local Government.

Plans.

Plan of area of supply to be made and kept open for inspection.

XVIII. (*1*) The licensee shall, after commencing to supply energy, forthwith cause a plan to be made of the area of supply, and shall cause to be marked thereon the line and the height above or the depth below the surface of all his then existing mains, electric supply-lines, street distributing boxes and other works, and shall once in every year cause that plan to be duly corrected so as to show the mains, electric supply-lines, street distributing boxes and other works for the time being in existence. The licensee shall also, if so required by the Local Government, cause to be made sections showing the level of all his existing distributing mains and underground works other than service-lines.

(*2*) Every such plan shall be drawn to a scale which shall not be smaller than eighty-eight feet to the inch or to such other scale as may be approved by the Local Government.

(*3*) Every such section shall be drawn to a horizontal scale which shall not be smaller than eighty-eight feet to the inch and to a vertical scale which shall not be smaller than eleven feet to an inch, or to such other horizontal and vertical scales as may be approved by the Local Government.

(*4*) Every plan and section so made or corrected, or a copy thereof, marked with the date when it was so made or corrected, shall be kept by the licensee at his principal office or place of business within the area of supply, and shall at all reasonable times be open to the inspection of all applicants, and copies thereof shall be supplied on such terms and conditions as may be prescribed by rules under the Indian Electricity Act, 1903.

(*5*) The licensee shall, if required by the Local Government, or, where the licensee is not a local authority, by the local authority (if any) concerned, supply to the Local Government or local authority, as the case may be, a copy of every such plan or section duly corrected so as to agree with the original kept at the principal office or place of business of the licensee.

Additional notice of certain works.

Notice to Electric Inspector.

XIX. On the day next preceding the commencement of any such works as are referred to in section 13 of the Indian Electricity Act, 1903, the licensee shall, in addition to any other notices which he may be required to give, serve upon the Electric Inspector or such officer as the Local Government may appoint in this behalf for the area of supply a notice in writing stating that he is about to commence the works and the nature and position of the same.

J. M. MACPHERSON,
Secy. to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 13th March, 1903, and is hereby promulgated for general information :—

ACT NO. IV OF 1903.

An Act further to amend the Provident Funds Act, 1897.

IX of 1897. WHEREAS it is expedient further to amend the Provident Funds Act, 1897; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Provident Funds (Amendment) Act, 1903.

IX of 1897. Substitution of new section for section 4, Act IX, 1897. 2. For section 4 of the Provident Funds Act, 1897, the following section shall be substituted, namely :—

Protection to deposits and other sums in certain cases. "4. (1) Compulsory deposits in any Government or Railway Provident Fund shall not be liable to any attachment under any decree or order of a Court of Justice in respect of any debt or liability incurred by a subscriber to, or depositor in, any such Fund, and neither the Official Assignee nor a Receiver appointed under Chapter XX of the Code of Civil Procedure shall be entitled to, or have any claim on, any such compulsory deposit. XI

(2) Any sum standing to the credit of any subscriber to, or depositor in, any such Fund at the time of his decease and payable under the rules of the Fund or under this Act to the widow or the children, or partly to the widow and partly to the children, of the subscriber or depositor, or to such person as may be authorized by law to receive payment on her or their behalf, shall vest in the widow or the children, or partly in the widow and partly in the children, as the case may be, free from any debt or other liability incurred by the deceased, or incurred by the widow or by the children, or by any one or more of them, before the death of such subscriber or depositor.

(3) Nothing in sub-section (2) shall apply in the case of any such subscriber or depositor as aforesaid dying before the thirteenth day of March, 1903."

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 13th March, 1903, and is hereby promulgated for general information :—

ACT NO. VI OF 1903.

An Act further to amend the Indian Paper Currency Act, 1882.

XX of 1882. WHEREAS it is expedient further to amend the Indian Paper Currency Act, 1882, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Indian Paper Currency (Amendment) Act, 1903.

XX of 1882. Amendment of Act XX of 1882, sections 16 and 17. 2. For sections 16 and 17 of the Indian Paper Currency Act, 1882, the following shall be substituted, namely :—

Notes where legal tender. "16. A currency note for five rupees, issued from any town not situate in Burma, shall be a legal tender at any place in British India except Burma,

a currency note for five rupees, issued from any town in Burma, shall be a legal tender at any place in Burma, and

a currency note for any amount exceeding five rupees shall be a legal tender at any place within the Circle from which the note was issued,

for the amount expressed in the note, in payment or on account of—

(*a*) any revenue or other claim, to the amount of five rupees and upwards, due to the Government of India, and

(*b*) any sum of five rupees and upwards, due by the Government of India or by any body corporate or person in British India:

Provided that no currency note shall be deemed to be a legal tender by the Government of India at any office of issue.

Notes where payable. "17. (*1*) A currency note for five rupees, issued from any town not situate in Burma, shall be payable at any office of issue not situate in Burma.

(*2*) A currency note for five rupees, issued from any town in Burma, shall be payable only at an office of issue in such town.

(*3*) A currency note for any amount exceeding five rupees shall be payable only—

(*a*) at an office of issue of the town from which it was issued, and

(*b*) in the case of notes issued from any town not situate in Burma, also at the Presidency-town of the Presidency within which that town is situate."

J. M. MACPHERSON,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 20th March, 1903, and is hereby promulgated for general information :—

ACT NO. VII OF 1903.

THE INDIAN WORKS OF DEFENCE ACT (1903).

CONTENTS.

PART I.

PRELIMINARY.

PART II.

IMPOSITION OF RESTRICTIONS.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

PART IV.

APPORTIONMENT OF COMPENSATION.

PART V.

PAYMENT.

PART VI.

MISCELLANEOUS.

The Indian Works of Defence Act, 1903.

(Part I.—Preliminary.—Sections 1-2.)

An Act to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions, and for determining the amount of compensation to be made on account of such imposition.

WHEREAS it is expedient to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions and for determining the amount of compensation to be made on account of such imposition; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Indian Works of Defence Act, 1903; and

(*2*) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas and the Pargana of Spiti.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(*a*) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth:

(*b*) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the imposition of restrictions upon the use and enjoyment of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land:

(*c*) the expression "Command" means one of the principal portions into which the Army of India is, for the time being, divided:

(*d*) the expression "General Officer of the Command" means the General Officer Commanding the Forces in a Command:

(*e*) the expression "Commanding Officer" means the officer for the time being in command of a work of defence:

(*f*) the expression "Collector" includes any officer specially appointed by the Local Government to perform the functions of a Collector under this Act:

(*g*) the expression "Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act:

(*h*) "maintain", with its grammatical variations and cognate expressions d[illegible] not, when used in relation to a house or other construction, include the doing of any act necessary for keeping such house or construction, until the making of the award referred to in section 12 or until the exercise, prior to the making of the award, of the powers of demolition conferred, in case of emergency, by section 6, sub-sections (*1*) and (*3*), in the state in which it was at the time of the publication of the notice referred to in section 3, sub-section (*2*):

(*i*) the following persons shall be deemed "entitled to act" as and to the extent hereinafter provided, that is to say,—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any case, and that to the same extent as the persons beneficially interested could have acted if free from disability:

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age: and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that—

(*i*) no person shall be deemed "entitled to act" whose interest in the subject-matter is shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(*ii*) in every case the person interested may appear by a next friend or in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

The Indian Works of Defence Act, 1903.

(*Part II.—Imposition of Restrictions.—Sections 3-6.*)

XIV of 1882. (*iii*) the provisions of Chapter XXXI of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and

(*iv*) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land upon the use and enjoyment of which restrictions are to be imposed and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

IMPOSITION OF RESTRICTIONS.

Declaration and notice that the restrictions will be imposed.

3. (*1*) Whenever it appears to the Local Government that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any work of defence or of any site intended to be used or to be acquired for any such work, in order that such land may be kept free from buildings and other obstructions, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders.

(*2*) The said declaration shall be published in the local official Gazette and shall state the district or other territorial division in which the land is situate and the place where a sketch plan of the land, which shall be prepared on a scale not smaller than six inches to the mile and shall distinguish the boundaries referred to in section 7, may be inspected; and the Collector shall cause public notice of the substance of the said declaration to be given at convenient places in the locality.

(*3*) The said declaration shall be conclusive proof that it is necessary to keep the land free from buildings and other obstructions.

Power to do preliminary acts after publication of notice under section 3, sub-section (2).

4. It shall be lawful for such officer as the Local Government may, by general or special order, authorize in this behalf, and for his servants and workmen, at any time after publication of the notice mentioned in section 3, sub-section (2), to enter upon and survey and take levels of any land in such locality, to dig or bore into the sub-soil, to do all other acts necessary to ascertain whether any and, if so, what restrictions should be imposed on the use and enjoyment of the land, to set out the boundaries of the land upon the use and enjoyment of which restrictions are to be imposed, or of any part of such land, to mark such levels boundaries and line by placing marks and cutting trenches, and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.

Further powers exerciseable after publication of notice under section 3, sub-section (2).

6. (*1*) Whenever a declaration has been made and public notice thereof has been given under section 3, it shall, subject to the provisions of sub-sections (*2*) to (*4*), be lawful for such officer as the Local Government may, by general or special order, authorize in this behalf, and for his servants and workmen, to enter and demolish any buildings or other constructions on the surface, to cut down or grub up all or any of the trees, to remove or alter all or any of the banks, fences, hedges and ditches, to make underground and other drains, to fill up all excavations, and demolish all buildings and other constructions below the surface, and generally to level and clear the said land and do all such acts for levelling and clearing the same as he may deem necessary or proper, but in such manner nevertheless that evidence of the boundaries of the lands held by different owners may be preserved.

(*2*) The powers conferred by sub-section (*1*) shall not be exercised,—

(*a*) save as otherwise provided by sub-section (*3*), before the making of the award hereinafter referred to in section 12, nor

(*b*) save as otherwise provided by sub-section (*4*), after the expiration of six months from the making of the said award, or any shorter period on the expiration of which the officer exercising such powers gives notice to the Collector that there will be no further exercise of them.

(*3*) In case of emergency, the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare that all or any

The Indian Works of Defence Act, 1903.

(Part II.—Imposition of Restrictions.—Sections 7-8.)

powers conferred by sub-section (*1*) may be exercised at any time within six months after the publication of the notice referred to in section 3, sub-section (*2*), and such powers may be exercised accordingly and the said notification shall be conclusive proof of emergency.

(*4*) Nothing in sub-section (*2*) shall be deemed to preclude any such officer or his servants or workmen from exercising at any time the said powers for the purpose of removing, wholly or in part, any building or other obstruction maintained, created, added to, altered, planted, stacked, stored or otherwise accumulated in contravention of this Act or of any rule or order made thereunder or of any condition prescribed in accordance therewith.

Restrictions.

7. From and after the publication of the notice mentioned in section 3, sub-section (*2*), such of the following restrictions as the Local Government may in its discretion declare therein shall attach with reference to such land, namely :—

(*a*) Within an outer boundary which, except so far as is otherwise provided in section 39, sub-section (*4*), may extend to a distance of two thousand yards from the crest of the outer parapet of the work,—

(*i*) no variation shall be made in the ground-level, and no building, wall, bank or other construction above the ground shall be maintained, erected, added to or altered otherwise than with the written approval of the General Officer of the Command, and on such conditions as he may prescribe ;

(*ii*) no wood, earth, stone, brick, gravel, sand or other material shall be stacked, stored or otherwise accumulated :

Provided that, with the written approval of the General Officer Commanding the District and on such conditions as he may prescribe, road-ballast, manure and agricultural produce may be exempted from the prohibition :

Provided, also, that any person having control of the land as owner, lessee or occupier shall be bound forthwith to remove such road-ballast, manure or agricultural produce, without compensation, on the requisition of the Commanding Officer ;

(*iii*) no surveying operation shall be conducted otherwise than by or under the personal supervision of a public servant duly authorized in this behalf, in the case of land under the control of military authority, by the Commanding Officer and, in other cases, by the Collector with the concurrence of the Commanding Officer ; and

(*iv*) where any building, wall, bank or other construction above the ground has been permitted under clause (*i*) of this sub-section to be maintained, erected, added to or altered, repairs shall not, without the written approval of the General Officer of the Command, be made with materials different in kind from those employed in the original building, wall, bank or other construction.

(*b*) Within a second boundary which may extend to a distance of one thousand yards from the crest of the outer parapet of the work, the restrictions enumerated in clause (*a*) shall apply with the following additional limitations, namely :—

(*i*) no building, wall, bank or other construction of permanent materials above the ground shall be maintained or erected :

Provided that, with the written approval of the General Officer of the Command and on such conditions as he may prescribe, huts, fences and other constructions of wood or other materials, easily destroyed or removed, may be maintained, erected, added to or altered :

Provided, also, that any person having control of the land as owner, lessee or occupier shall be bound forthwith to destroy or remove such huts, fences or other constructions, without compensation, upon an order in writing signed by the General Officer Commanding the District; and

(*ii*) live hedges, rows or clumps of trees or orchards shall not be maintained, planted, added to or altered otherwise than with the written approval of the General Officer of the Command and on such conditions as he may prescribe.

(*c*) Within a third boundary which may extend to a distance of five hundred yards from the crest of the outer parapet of the work, the restrictions enumerated in clauses (*a*) and (*b*) shall apply with the following additional limitation, namely :—

no building or other construction on the surface, and no excavation, building or other construction below the surface, shall be maintained or erected :

Provided that, with the written approval of the Commanding Officer and on such conditions as he may prescribe, open railings and dry brush-wood fences may be exempted from this prohibition.

Land to be marked out, measured, registered and planned.

8. As soon as may be, after the publication of the declaration aforesaid, the Collector shall cause the land to be marked out and measured, and shall also prepare a register and a detailed plan, which shall be on a scale

The Indian Works of Defence Act, 1903.

(Part II.—Imposition of Restrictions.—Sections 9-13.)

not smaller than six inches to the mile, showing accurately every building, tree and other obstruction.

Notice to persons interested.

9. (*1*) At any time before the expiration of—

(*a*) the period of eighteen months from the publication of the declaration referred to in section 3, or

(*b*) such other period not exceeding three years from the said publication as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, direct in this behalf,

the Collector shall cause public notice to be given at convenient places on or near the land, stating the effect of the said declaration and that claims to compensation for all interests in such land affected by anything done or ordered in pursuance of such declaration may be made to him:

Provided that, where anything has been done in exercise of the powers conferred, in case of emergency, by section 6, sub-section (*3*), the notice prescribed by this section shall be given as soon as may be thereafter.

(*2*) Such notice shall state the particulars of any damage ordered to be done or, in the case referred to in section 6, sub-section (*3*), done in exercise of any of the powers conferred by the said section, and the particulars of any restrictions attaching to the land under section 7, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for damage to such interests and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(*3*) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

(*4*) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address, or place of business.

Power to require and enforce the making of statements as to names and interests.

10. The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

Application of certain sections of the Indian Penal Code.

11. Every person required to make or deliver a statement under section 9 or section 10 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. XLV

Inquiry and award by Collector.

12. On the day fixed under section 9, or on any other day to which the inquiry has been adjourned, the Collector shall proceed to inquire into the objections (if any) which any person interested has stated pursuant to a notice given under the said section to the measurements made under section 8, and into the decrease in the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

(*a*) the true area of the land and the nature of the obstructions from which the land is to be kept free;

(*b*) the compensation which in his opinion should be allowed for any damage caused or to be caused under section 6 and for any restrictions imposed under section 7; and

(*c*) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom or of whose claims he has information, whether they have respectively appeared before him or not.

Award of Collector when to be final.

13. (*1*) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area of the land, the nature of the said obstructions from which the land is to be kept free, the damage caused or to be caused under section 6, the value of the rights restricted under section 7, and the apportionment of the compensation among the persons interested.

(*2*) The Collector shall give immediate notice of his award to such of the persons interested

The Indian Works of Defence Act, 1903.

(Part II.—Imposition of Restrictions.—Sections 14-17. Part III.—Reference to Court and Procedure thereon.—Sections 18-22.)

as are not present personally or by their representatives when the award is made.

Adjournment of inquiry.

14. The Collector may, for any cause he thinks fit, from time to time adjourn the inquiry to a day to be fixed by him.

Power to summon and enforce attendance of witnesses and production of documents.

15. For the purpose of inquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents, by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure. of 1882.

Matters to be considered and neglected.

16. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

Supplementary proceedings.

17. Whenever the officer exercising powers conferred by section 6 considers it necessary that anything in respect of which any person is or may be entitled to compensation but of which no notice has been given or compensation awarded, under sections 9 and 12, respectively, should be done in pursuance of the said powers, the Collector shall cause supplementary notice to be given, as nearly as may be, in the manner prescribed by section 9 and subject to the limit of time imposed by sub-section (*1*) of that section, and the provisions of sections 10 to 16 shall, so far as they are applicable, be deemed to apply to any further inquiry and award which may be held or made in consequence of such supplementary notice.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

Reference to Court.

18. (*1*) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested:

Provided that every such application shall be made,—

(*a*) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(*b*) in other cases, within six weeks of the receipt of the notice from the Collector under section 13, sub-section (*2*), or within six months from the date of the Collector's award, whichever period shall first expire.

(*2*) The application shall state the grounds on which objection to the award is taken.

Collector's statement to the Court.

19. (*1*) In making the reference the Collector shall state, for the information of the Court, in writing under his hand,—

(*a*) the situation and extent of the land with particulars of any damage caused under section 6 or of restrictions imposed under section 7;

(*b*) the names of the persons whom he has reason to think interested in such land;

(*c*) the amount of compensation awarded under section 12; and,

(*d*) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(*2*) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

Service of notice.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:—

(*a*) the applicant;

(*b*) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and,

(*c*) if the objection is in regard to the area of the land, the nature of the obstructions or the amount of the compensation, the Collector.

Restriction on scope of proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Proceedings to be in open Court.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the Province shall be entitled to appear, plead and act, as the case may be, in such proceeding.

The Indian Works of Defence Act, 1903.

(Part III.—Reference to Court and Procedure thereon.—Section 23-28. Part IV.—Apportionment of Compensation.—Section 29.)

Matters to be considered in determining compensation.

23. (*1*) In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall take into consideration—

(*a*) the actual decrease in market-value of the land owing to the publication of the declaration relating thereto under section 3 and any damage caused or to be caused under section 6;

(*b*) the damage sustained by the person interested, by reason of the removal of any standing crops in the exercise of any power conferred by section 6;

(*c*) the damage (if any) sustained by the person interested, by reason of ceasing to be able to use such land conjointly with his other land;

(*d*) the damage (if any) sustained by the person interested by anything done or ordered under sections 6 and 7 injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings; and,

(*e*) if, in consequence of the imposition of restrictions, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change.

(*2*) In addition to the amount representing the actual decrease in the market-value of the land as above provided, the Court shall in every case award a further sum of fifteen per centum on such amount.

Matters not to be considered in determining compensation.

24. In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall not take into consideration—

(*a*) the degree of urgency which has led to the damage or the imposition of restrictions;

(*b*) any disinclination of the person interested to submit to damage or restrictions;

(*c*) any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit;

(*d*) any increase to the value of the other land of the person interested, accruing or likely to accrue from anything done under this Act; or

(*e*) any outlay or improvements on, or disposal of, the land commenced, made or effected without the sanction of the Collector after the date of the publication of the declaration under section 3.

Rules as to amount of compensation.

25. (*1*) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 12.

(*2*) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(*3*) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Form of awards.

26. Every award under this Part shall be in writing signed by the Judge and shall specify the amount awarded under section 23, sub-section (*1*), clause (*a*), and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

Costs.

27. (*1*) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportion they are to be paid.

(*2*) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court is of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

Collector may be directed to pay interest on excess compensation.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date of his award to the date of payment of such excess into Court.

PART IV.

APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

The Indian Works of Defence Act, 1903.

(Part IV.—Apportionment of Compensation.—Section 30. Part V.—Payment.—Sections 31-34.)

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 12, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

PART V.

PAYMENT.

Payment of compensation or deposit of same in Court.

31. (*1*) On making an award under section 12, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (*2*).

(*2*) If they do not consent to receive it, or if there is no person competent to alienate the land, or if there is any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided, first, that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided, secondly, that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided, thirdly, that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(*3*) Notwithstanding anything in this section, the Collector may, with the sanction of the Local Government, instead of awarding a money-compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, or by the remission of land-revenue on the same or on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(*4*) Nothing in sub-section (*3*) shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

32. (*1*) If any money is deposited in Court under section 31, sub-section (*2*), and it appears that the land in respect of which the same was awarded belonged to any person who had no power to alienate the same, the Court shall order the money to be invested—

(*a*) in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money was deposited is held, or,

(*b*) if such purchase cannot be effected forthwith, then in such Government or other approved securities as it thinks fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same are applied—

(*i*) in the purchase of such other lands as aforesaid; or

(*ii*) in payment to any person or persons becoming absolutely entitled thereto.

(*2*) In all cases of moneys deposited to which this section applies, the Court shall order the cost of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely:—

(*a*) the costs of such investments as aforesaid;

(*b*) the costs of the orders for the payment of the interest or other proceeds of the securities in which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys and the costs of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment of money deposited in other cases.

33. If any money is deposited in Court under this Act for any cause other than that mentioned in section 32, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it thinks fit, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit therefrom as they might have had from the land in respect of which such money was deposited or as near thereto as may be.

Payment of interest.

34. When the amount of any compensation awarded under this Act is not paid or deposited within fifteen days of making the award, the Collector shall pay the amount awarded with interest thereon at the

The Indian Works of Defence Act, 1903.

(Part VI.—Miscellaneous.—Sections 35-39.)

rate of six per centum per annum from the date of the award until it is so paid or deposited.

—

PART VI.

MISCELLANEOUS.

Service of notices

35. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 3, sub-section (2), by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house and also in some conspicuous part of the land upon which restrictions are to be imposed:

Provided that, if the Collector or Judge so directs, a notice may be sent by post in a letter addressed to the person named therein at his last known residence, address or place of business and service of it may be proved by the production of the addressee's receipt.

36. Whoever wilfully—

Penalties.

(a) obstructs any person in doing any of the acts authorized by section 4, section 6 or section 8, or

(b) destroys, damages, alters or otherwise interferes with the ground-level or any work done under section 6, or

(c) contravenes any of the provisions of section 7 or any condition prescribed thereunder,

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both, and, in the case of a continuing offence, with an additional fine which may extend to five rupees for every day after the first in regard to which he is convicted of having persisted in the offence; and any expenses incurred in removing the effects of his offence may be recovered from him in the manner provided by the law for the time being in force for the recovery of fines.

Magistrate to enforce the terms of the Act.

37. If the Collector or officer authorized under section 6 is opposed or impeded in doing anything directed or permitted by this Act, he shall, if a Magistrate, enforce compliance, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras, Bombay and Rangoon) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce compliance.

Completion of imposition of restrictions not compulsory, but compensation to be awarded when not completed.

38. (1) The Local Government shall be at liberty to withdraw from the imposition of any declared restrictions before any of the measures authorized by section 6 have been taken.

(2) Whenever the Local Government withdraws the imposition of any declared restrictions, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said restrictions.

(3) The provisions of Part III shall apply, so far as may be, to the determination of the compensation payable under this section.

Demolition of part of house or building and imposition of restrictions on part of land.

39. (1) The provisions of this Act shall not be put in force for the purpose of demolishing or acquiring the right to demolish a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be demolished or that the right to demolish the whole of it shall be acquired:

Provided that the owner may at any time before the Collector has made his award under section 12, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be demolished, or that the right to demolish the whole of it shall be acquired:

Provided, also, that, if any question shall arise as to whether any building or other construction proposed to be demolished under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and such building or other construction shall not be demolished until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the building or other construction proposed to be demolished is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim of the kind referred to in section 23, sub-section (1), clause (c), by a person interested, on account of ceasing to be able to use the land, upon the use and enjoyment of which restrictions are to be imposed, conjointly with his other land, the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the

The Indian Works of Defence Act, 1903.

(Part VI.—Miscellaneous.—Sections 40-44.)

imposition of restrictions upon the whole of the land of which the land upon the use and enjoyment of which it was first sought to impose restrictions forms a part.

(*3*) In the case provided for by sub-section (*2*) no fresh declaration or other proceeding under sections 3 to 10 shall be necessary; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 12.

(*4*) Notwithstanding anything contained in section 7, clause (*a*), any land, upon the use and enjoyment of which restrictions are imposed under this section may be included in the outer boundary, even though its distance from the crest of the outer parapet of the work exceeds two thousand yards.

Exemption from stamp-duty and fees.

40. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

41. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

42. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act. XIV of 1882.

Appeals in proceedings before Court.

43. Subject to the provisions of the Code of Civil Procedure applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceeding under this Act. XIV of 1882.

Power to make rules.

44. (*1*) The Governor General in Council and the Local Government, with the previous sanction of the Governor General in Council, may make rules for the guidance of officers in all matters connected with the enforcement of this Act.

(*2*) The power to make rules under sub-section (*1*) shall be subject to the condition of the rules being made after previous publication.

(*3*) All rules made under sub-section (*1*) shall be published in the local official Gazette, and shall thereupon have effect as if enacted in this Act.

J. M. MACPHERSON,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 20th March, 1903, and is hereby promulgated for general information :—

ACT NO. VIII OF 1903.

An Act to extend to all High Courts the power to grant Probates of Wills and Letters of Administration having effect throughout British India, and to confer upon District Judges the power to grant such probates in certain cases.

WHEREAS it is expedient to extend to all High Courts the power to grant probates of wills and letters of administration having effect throughout British India, and to confer upon District Judges the power to grant such probates in certain cases; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Probate and Administration Act, 1903.

The Indian Succession Act, 1865.

X of 1865.

Amendment of sections 187, 242, 242A, 244, 246 and 250, Act X, 1865.

2. In the Indian Succession Act, 1865, the following amendments shall be made, namely:—

(*1*) In section 187, for the words "within the Province" the words "in British India," and for the words "under the one hundred and eightieth section" the words "with the will, or with a copy of an authenticated copy of the will, annexed," shall respectively be substituted.

(*2*) To section 242 the following proviso shall be added, namely:—

"Provided that probates and letters of administration granted—

(*a*) by a High Court or

(*b*) by a District Judge, where the deceased at the time of his death had his fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property and estate affected beyond the limits of the Province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

(*3*) After the said proviso the following section shall be inserted, namely:—

Transmission to High Courts of certificate of grants under proviso to section 242.

"242A. (*1*) Where probate or letters of administration has or have been granted by a High Court or District Judge with the effect referred to in the proviso to section 242, the High Court or District Judge shall send a certificate thereof to the following Courts, namely:—

(*a*) when the grant has been made by a High Court, to each of the other High Courts,

(*b*) when the grant has been made by a District Judge, to the High Court to which such District Judge is subordinate and to each of the other High Courts.

(*2*) Every certificate referred to in sub-section (*1*) shall be to the following effect, namely:—

'I, *A. B.*, Registrar [*or as the case may be*] of the High Court of Judicature at [*or as the case may be*], hereby certify that on the day of , the High Court of Judicature at [*or as the case may be*], granted probate of the will [*or* letters of administration of the estate] of *C. D.*, late of , deceased, to *E. F.* of and G. H. of and that such probate [*or* letters] has [*or* have] effect over all the property of the deceased throughout the whole of British India;'

and such certificate shall be filed by the High Court receiving the same.

(*3*) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 244 and 246, to be situate within the jurisdiction of a District Judge in another Province, the Court required to send the certificate referred to in sub-section (*1*) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same."

(*4*) To sections 244 and 246, respectively, the following paragraph shall be added, namely:—

"Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another Province, the petition shall further state the amount of such assets in each Province and the District Judges within whose jurisdiction such assets are situate."

(5) After section 246 the following section shall be inserted, *viz.* :—

"246A. (*1*) Every person applying to any of the Courts mentioned in the proviso to section 242 for probate of a will or letter of administration of an estate intended to have effect throughout British India, shall state in his petition, in addition to the matters respectively required by section 244 and section 246 of this Act, that to the best of his belief no application has been made to any other Court for a probate of the same will or for letters of administration of the same estate, intended to have such effect as last aforesaid,

Addition to statement in petition, etc., probate or letters of administration in certain cases.

or, where any such application has been made, the Court to which it was made, the person or persons by whom it was made and the proceedings (if any) had thereon.

(*2*) The Court to which any such application is made under the proviso to section 242, may, if it thinks fit, reject the same."

(*6*) To section 250 the following paragraph shall be added, namely :—

"Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another Province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same manner as if it were a citation issued by himself and shall certify such publication to the District Judge who issued the citation."

(*7*) After section 277 the following section shall be inserted, namely :—

"*277A.* In all cases where a grant has been made of probate or letters of administration intended to have effect throughout the whole of British India, the executor, or administrator shall include in the inventory of the effects of the deceased all his moveable or immoveable property situate in British India,

Inventory to include property in any part of British India in certain cases.

and the value of such property situate in each Province shall be separately stated in such inventory, and the probate or letters of administration shall be chargeable with a fee corresponding to the entire amount or value of the property affected thereby wheresoever situate within British India."

The Probate and Administration Act, 1881.

V of 1881. 3. In the Probate and Administration Act, 1881, the following amendments shall be made, namely :—

Amendment of sections 59, 60, 62, 64 and 69, Act V, 1881.

(*1*) In section 59, for the proviso the following proviso shall be substituted, namely :—

"Provided that probates and letters of administration granted—

(*a*) by a High Court or

(*b*) by a District Judge, where the deceased at the time of his death had his fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property affected beyond the limits of the Province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

(*2*) For section 60 the following section shall be substituted, namely :—

"60. (*1*) Where probate or letters of administration has or have been granted by a Court with the effect referred to in the proviso to section 59, the High Court or District Judge shall send a certificate thereof to the following Courts, namely :—

Transmission to High Courts of certificates of grants under proviso to section 59.

(*a*) when the grant has been made by a High Court, to each of the other High Courts,

(*b*) when the grant has been made by a District Judge, to the High Court to which such District Judge is subordinate and to each of the other High Courts.

(*2*) Every certificate referred to in sub-section (*1*) shall be to the following effect, namely :—

'I, *A. B.*, Registrar [*or as the case may be*] of the High Court of Judicature at [*or as the case may be*], hereby certify that on the day of the High Court of Judicature at [*or as the case may be*] granted probate of the will [*or* letters of administration of the estate] of *C. D.*, late of , deceased, to *E. F.* of and *G. H.* of , and that such probate [*or* letters] has [*or* have] effect over all the property of the deceased throughout the whole of British India ;'

and such certificate shall be filed by the High Court receiving the same.

(*3*) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 62 and 64, to be situate within the jurisdiction of a District Judge in another Province, the Court required to send the certificate referred to in sub-section (*1*) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same."

(*3*) To sections 62 and 64, respectively, the following paragraph shall be added, namely :—

"When the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another Province, the petition shall further state the amount of such assets in each Province and the District Judges within whose jurisdiction such assets are situate."

(*4*) To section 69 the following paragraph shall be added, namely :—

"Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another Province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same manner as if it were a citation issued by himself and shall certify such publication to the District Judge who issued the citation.

Repeals.

4. The Probate and Administration Act, 1875, sections 2, 3, 4 and 5, and the Probate and Administration Act, 1877, are hereby repealed. XIII of 1875. II of 1877.

Repeals.

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 20th March, 1903, and is hereby promulgated for general information:—

ACT NO. IX OF 1903.

An Act to provide for the levy of customs-duty on Indian tea exported from British India, and to amend section 5 of the Indian Tariff Act, 1894.

WHEREAS it is expedient to provide for the creation of a fund to be expended for the promotion of the interests of the tea industry in India by a Committee specially constituted in this behalf;

and whereas for this purpose it is expedient to levy customs-duty on tea produced in India and exported from British India, and to amend section 5 of the Indian Tariff Act, 1894; VIII of 1894.

It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Tea Cess Act, 1903; and

(*2*) It extends to the whole of British India except Aden.

Definitions.

2. In this Act,—

(*a*) "Collector" means, in reference to tea exported by sea, a Customs-collector as defined in clause (*c*) of section 3 of the Sea Customs Act, 1878, and, in reference to tea passing out of British India by land, the Collector of the district; VIII of 1878.

(*b*) "tea cess" means the customs-duty imposed by section 3 of this Act and by section 5 of the Indian Tariff Act, 1894, as amended by this Act; and VIII of 1894.

(*c*) "Tea Cess Committee" means the Committee constituted under section 4.

Imposition of duty on exports of Indian tea.

3. On and from the first day of April, 1903, a customs-duty shall be levied and collected on all tea produced in India and exported from any customs-port to any port beyond the limits of British India or to Aden at the rate of one-quarter of a pie per pound, or at such lower rate as the Governor General in Council may, on the recommendation of the Tea Cess Committee, prescribe by notification in the Gazette of India.

Constitution of Tea Cess Committee.

4. (*1*) The Governor General in Council shall constitute a Committee to receive and expend the proceeds of the tea cess.

(*2*) The Committee shall in the first instance consist of twenty members, who shall be appointed by the Governor General in Council on the recommendation of the following bodies and authorities, namely:—

(*a*) three on the recommendation of the Bengal Chamber of Commerce; and one on the recommendation of the Madras Chamber of Commerce,

(*b*) seven on the recommendation of the Indian Tea Association, Calcutta; and

(*c*) nine on the recommendation of such respective bodies or authorities interested in the production of tea in India, and established in British India as the Governor General in Council may appoint in this behalf:

Provided that if, within the period prescribed in this behalf by rules made under this Act, any of the said bodies or authorities fails to make any recommendation, or to make the full number of recommendations which it is entitled to make, the Governor General in Council may appoint the required number of members of the Committee of his own motion without such recommendation.

(*3*) Whenever any member appointed either on the recommendation of any body or authority referred to in sub-section (*2*), or in default of such recommendation, dies, resigns, ceases to reside in British India or becomes incapable of acting as a member of the Committee, the Governor General in Council may, in his discretion, on the recommendation of such body or authority, or in default of such recommendation, appoint another person to be a member in his stead.

(*4*) No act done by the Tea Cess Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Committee.

Application of proceeds of tea cess.

5. (*1*) At the close of each month, or as soon thereafter as may be convenient, the Collector shall pay the proceeds of the tea cess after deducting the expenses of collection (if any), to the Tea Cess Committee.

(2) The said proceeds and any other moneys received by the Committee in this behalf shall be applied by the Committee towards meeting the cost of such measures as the Committee may consider it advisable to take for promoting the sale and increasing the consumption in India and elsewhere of teas produced in India.

Keeping and auditing of accounts.

6. (1) The Tea Cess Committee shall keep accounts of all money received and expended under section 5.

(2) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Governor General in Council; and such auditors may disallow any item which has, in their opinion, been expended out of any money so received otherwise than as directed by or under this Act.

(3) If any item is disallowed an appeal shall lie to the Governor General in Council whose decision shall be final.

Power to make rules.

7. (1) The Governor General in Council, after consulting the Tea Cess Committee and after previous publication, may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,

(a) the nomination and appointment of members of the Committee, and the procedure of the Committee,

(b) the levy and payment of the cess and

(c) the form of accounts to be kept and the publication of an abstract of such accounts with the report of the auditors thereon.

(3) All such rules shall be published in the Gazette of India.

Amendment of Act VIII of 1894, section 5.

8. In section 5 of the Indian Tariff Act, 1894, for the words "shall be levied at the rates respectively prescribed in the second, third and fourth schedules on goods passing by land out of, and in the fifth schedule on goods passing by land into" the words "at such rates as may be prescribed by or under this Act or by or under any law for the time being in force relating to customs-duties on imports and exports, respectively, into and from ports, shall be levied on goods passing by land out of or into" shall be substituted. VIII of 1894.

Time during which sections 2 to 7 are to remain in force.

9. Sections 2 to 7 shall remain in force only until the thirty-first day of March, 1908:

Provided that the Governor General in Council may, on the recommendation of the Tea Cess Committee, declare, by notification in the Gazette of India, that the said sections shall continue in force for any further period specified in such notification.

Disposal of surplus proceeds of tea cess.

10. If any proceeds of the tea cess or any moneys so received as aforesaid remain unexpended when sections 2 to 7 cease to be in force, they shall vest in His Majesty.

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 20th March, 1903, and is hereby promulgated for general information:—

ACT No. X OF 1903.

An Act to provide for the erection and management of the Victoria Memorial at Calcutta.

WHEREAS it is intended to erect at Calcutta a building as a Memorial of the Life and Reign of Her late Majesty VICTORIA of the United Kingdom of Great Britain and Ireland Queen, Empress of India, and for this purpose large sums of money have been subscribed by the Princes and People of India;

And whereas at a meeting of Subscribers held in Calcutta certain persons were appointed a Provisional Executive Committee to take the custody of the said moneys;

And whereas it is expedient to make provision for the erection, maintenance and management of the Memorial and for the appointment of a permanent body of Trustees;

It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Victoria Memorial Act, 1903; and

(*2*) It shall come into force at once.

Trustees.

2. (*1*) The Trustees of the Victoria Memorial (hereinafter called the Trustees) shall be the following, namely:—

(*a*) the Governor General of India,

(*b*) the Lieutenant-Governor of Bengal,

(*c*) the Chief Justice of Bengal,

(*d*) two persons of high rank nominated by the Governor General to represent the Chiefs and Nobles of India,

(*e*) the Secretary to the Government of India in the Foreign Department,

(*f*) the President of the Bengal Chamber of Commerce,

(*g*) the Chairman of the Corporation of Calcutta, and

(*h*) such and so many persons as shall from time to time be nominated by the Trustees with the approval of the Governor General to represent the general body of Subscribers.

(*2*) The Trustees shall be a body corporate, with perpetual succession by the name of "The Trustees of the Victoria Memorial" and a common seal, and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts, and to do all acts necessary for and consistent with the purposes of this Act.

(*3*) All acts done by a majority of those present and voting at a meeting of the Trustees shall be deemed to be acts of the Trustees.

(*4*) No act of the Trustees shall be deemed to be invalid merely by reason of any vacancy in, or defect in the constitution of, the body of the Trustees.

(*5*) In the case of *ex officio* Trustees the person for the time being performing the duties of any of the offices mentioned in sub-section (*1*) shall act as a Trustee.

(*6*) The Trustees may appoint a person to act as their Secretary.

(*7*) Orders for the payment of money on behalf of the Trustees shall be deemed to be sufficiently authenticated if signed by two Trustees and countersigned by the Secretary.

Property vested in Trustees.

3. All sums of money now in the custody of the said Provisional Executive Committee and all other property, whether moveable or immoveable, which have been or may hereafter be given, bequeathed or otherwise transferred for the purposes of the said Memorial or acquired for the said purposes by the Trustees shall vest in the Trustees.

Officers and servants to be public servants.

4. All officers and servants employed by the Trustees shall be deemed to be public servants within the meaning of the Indian Penal Code: XLV of 18

Provided that this section shall not apply to persons in the service of any contractor employed by the Trustees.

Ru

5. (*1*) The Governor General in Council may make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to

the generality of the foregoing power, such rules may provide—

(*a*) for the manner in which Trustees, other than *ex officio* Trustees, shall be appointed, and for the periods of time for which such Trustees shall hold office;

(*b*) for the manner in which meetings of the Trustees shall be convened, the quorum necessary for the transaction of business, and the procedure at such meetings;

(*c*) for the appointment of Committees of the Trustees, and the powers of expenditure and control which may be delegated to such Committees;

(*d*) for the erection, maintenance and management of the Memorial, the care and custody of the objects deposited therein, and the conditions under which the public shall have access thereto;

(*e*) for the form of accounts to be kept by the Trustees, and for the audit and publication of such accounts; and

(*f*) for the application to the officers and servants employed by the Trustees of the rules which apply to the civil servants of the Crown, or to any class of such civil servants.

J. M. MACPHERSON,

Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, APRIL 2, 1903.

PART IV.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to consolidate and amend the Law relating to the Procedure of the Courts of Civil Judicature was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 13th March, 1903 :—

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the Law relating to the Procedure of the Courts of Civil Judicature was referred, have considered the Bill and the papers noted in the Appendix, and have now the honour to submit this our Preliminary Report, with the Bill as amended by us annexed thereto.

PART I.

PRELIMINARY.

CHAPTER I.

2. As in the case of the Code of Criminal Procedure, 1898 (Act V of 1898), we have, for greater facility of reference, classified and numbered the "preliminary" portion as a Chapter.

Clause 1.—We have, in view of local opinion, altered the extent clause so as to render the Bill applicable *ex proprio vigore* to Sindh, where the present Code is in force in virtue of a notification under the Scheduled Districts Act, 1874 (XIV of 1874), section 5.

Clause 2.—The special provisions regulating the attachment of "growing crops" will be ineffectual if they do not cover the same crops after they have been cut or gathered. We propose, therefore, to employ the compendious expression "agricultural produce" which we would define on the lines of the Bengal Tenancy Act, 1885 (VIII of 1885), section 121, clause (*b*).

The wording of the definition of "agriculturist" has been slightly altered to meet criticisms to the effect that the corresponding passage in the Dekkhan Agriculturists' Relief Act, 1879 (XVII of 1879), would, if strictly construed, include for the time being a person occasionally earning the whole or the greater part of his livelihood by agriculture. An *explanation* has been added for the purpose of removing any doubt on the question whether the expression "agriculture" includes market-gardening to which we consider the principle underlying the proposed provision to be equally applicable.

We have considerably modified the definition of "cause of action". The substitution of "all the facts" for "every fact" is intended to give effect to the principle that the

term relates to an *aggregate* of facts constituting the right and its infraction. For the words "the plaintiff" the words "a party" have been substituted to meet the case, for example, of set-off or counter-claim. We have replaced the word "traversed" by the words "not admitted," inasmuch as certain facts, such as those supporting a claim to be decreed *ex parte*, have to be established as substantive propositions, even though they are not traversed by the opposite party. We have restricted the term "order" by adding the words "capable of execution" to avoid the inclusion of orders of a purely incidental and interlocutory character. We have omitted the words "has no relation to the defence nor", which, though appropriate in the course of a decision [*per* Lord Watson, *Mussummat Chand Kour* v. *Partab Singh* (1888), L. R. 15 I. A. 156, at p. 157], appear to us to be too general for use in a Code.

Into the definition of "Chief Controlling Revenue-authority" we have introduced some verbal alterations for closer conformity with the terms of the Proclamation of the 22nd March, 1902, and the United Provinces (Designation) Act, 1902 (VII of 1902). In sub-head (*ii*) we have, with reference to the General Clauses Act, 1897 (X of 1897), section 3, clause (*41*), slightly departed from the wording of the Indian Stamp Act, 1899 (II of 1899), section 2, clause (*8*).

We have shortened and lightened the definition of "decree" by omitting certain items which, though embodied in the Bill as exemplars, are founded upon cases not likely to prove of general utility in practice. In some cases, moreover, we have found it more convenient to provide in other clauses for giving the force of a decree to the decisions thereunder. It will be observed that we have omitted the words restricting "decree" to adjudications "upon the merits," because they might be held to exclude final decisions given wholly upon questions of law. We have considered it expedient to include in the definition an express reference to "preliminary decree", which is an expression somewhat frequently employed in the course of this Bill. In the various sub-heads retained by us we have substituted the word "decision" for the word "order" to avoid a verbal inconsistency occurring in the present Code with the definition reproduced by us in paragraph (*t*). In sub-head (*i*) we have affirmed the broad principle that the return of a plaint should never, and the rejection of a plaint should always, be appealable as a decree. In sub-head (*ii*) we have added words to restrict frivolous appeals in incidental matters, such as adjournments in execution-proceedings. In sub-head (*v*), as in clause 366 there cited, we propose to act upon the view that abatement results from operation of law and does not depend upon the issue of an order. We have slightly modified the language of sub-head (*xi*) because it has been pointed out that there are "references" in section 588 to matters other than orders from which an appeal is given thereunder.

The distinction between decrees according as they are final or preliminary has necessitated the substitution of the words "final and conclusive", of which we have proposed a definition, for the word "final" wherever it occurs in this sense in the present Code.

Words have been added to the definition of "sign" for greater conformity with the terms of the General Clauses Act, 1897, section 3, clause 52.

As it is proposed to restrict the expression "suit" to proceedings in Civil Courts commenced by plaints [compare, *Venkata Chandrappa Nayanivaru* v. *Venkatarama Reddi* (1898), I. L. R. 22 Mad. 256], the insertion of a definition to this effect has been considered desirable.

In the original Bill it was sought, by the substitution of the expression "female," to obviate the straining of language by which, in some cases, girls of twelve years of age have been brought [*In the matter of Mainath Singh* v. *Mussamut Moorta Kooer* (1875), 24 W. R. 375] within the purview of the term "woman". As objections have been raised to the substituted expression, it is proposed to revert to the term "woman" but to add a definition on the lines of the Indian Penal Code (Act XLV of 1860), section 10.

Clause 3.—As the subordination of Courts is not strictly a matter of definition, we have removed the existing provision on the subject from clause 2 and propose to convert it into an independent clause.

Clauses 4 to 7.—In the replies from Local Governments to a special reference on the subject, a unanimous opinion was expressed to the effect that the cumbrous provisions of clauses 4 (*1*), 6 (*1*) and 7 should be replaced by a simpler and more comprehensive saving on the lines of that contained in the Code of Criminal Procedure, 1898 (Act V of 1898), section 1, sub-section (*2*). The necessity for preserving the substance of clause 7 has involved some addition to the First Schedule, which has been redrafted at the desire of the Government of Bombay.

The revenue laws of several Provinces contain special provisions for the more speedy recovery of agricultural rent to which indeed the produce of the land is, in several instances, declared to be hypothecated. The more general terms of the saving clause, as now proposed by us, would, we think, suffice to save such rights and remedies. At the same time, for the sake of greater clearness, we have inserted an express saving which is likely to save mistakes in practice. This enables us to dispense with the proviso originally appended to clause 269B. The purview of clause 4, sub-clause (*2*), which now appears as clause 4, has been expanded by us to cover the case of Civil Judges in the Central Provinces. These officers, who are not District Judges under the local enactment, exercise a concurrent civil jurisdiction with regard to which the Government should have the same power as in the case of Commissioners and Deputy Commissioners.

In view of the proposals to remove certain matters from the pecuniary limitations imposed upon the jurisdiction of the Courts, we have somewhat amplified the references in clause 6, sub-clause (*2*), now appearing as clause 6, to cases excepted. On the other

hand, the reference to clause 111 has been omitted because, as we have noted upon the provision in question, we propose, in preference to extension of jurisdiction, to require transfer of cases involving a set-off or counter-claim in respect of which the Court is not competent to grant relief.

Clause 8.—We have added words represented to us as necessary for the purpose of meeting the case of judicial officers invested with the powers given by law to Provincial Courts of Small Causes.

PART II.

OF SUITS IN GENERAL.

CHAPTER II.

OF THE JURISDICTION OF THE COURTS AND RES JUDICATA.

Clause 11.—*Explanation II* has been added to give effect to a decision [*Kishori Mohun Roy Chowdhry* v. *Chunder Nath Pal* (1887), I. L. R. 14 Cal. 644].

Clause 12.—We have substituted the word "stay" for the words "not try" to explain more clearly the action to be taken by the Court; and the words "for the same relief" have been omitted because the application of the provision should depend not upon the mere prayer of the parties, but upon the matter in issue.

Clauses 13 to 14B.—It has been represented to us that clause 13 as originally drafted in the Bill is not unlikely to prove too elaborate for some of the subordinate Courts of this country. We have accordingly simplified the arrangement by first stating so much of the rule of *res judicata* as lends itself to general expression and have then enunciated, as separate propositions, the various conditions to which the rule is subject and which at present are inconveniently and inappropriately subjoined as *explanations.* We have, moreover, omitted the saving of remedies embodied as sub-clause (2) of clause 13 of the Bill, because we consider that such a saving is necessarily implied and that no special provision, therefore, is required for the case-law [*Lalla Sheo Churn Lal* v. *Ramnandan Dobey* (1894), I. L. R. 22 Cal. 8; *Cursandas Natha* v. *Ladkavahu* (1895), I. L. R. 19 Bom. 571], which it was sought to settle by the sub-clause. The existing *explanation VI*, which in strictness is not an *explanation* at all but rather a substantive rule of evidence, has been relegated by us to a more convenient position at the end of the Chapter.

From clause 13 we have omitted the words "which has not been obtained by fraud or collusion" because the provisions of the Indian Evidence Act, 1872 (I of 1872), section 44, which it was intended to save, are confined to judgments proved by the adverse party, and we think that a provision relating to procedure is, of necessity, subject to the general law of evidence. We have avoided the expression "subsequent suit or proceeding" and have recast the sentence to render it clear [*Balkishan* v. *Kishan Lal* (1888), I. L. R. 11 All. 148; *Gururajammah* v. *Venkatakrishnama* (1901), I. L. R. 24 Mad. 350] that the date, not of institution but of decision, determines the application of the principle of *res judicata.*

As in the definition of a "decree", we have omitted the words "the merits of", which might be held to exclude the decision upon a point of limitation.

The words "and not collaterally, incidentally or inferentially", which add nothing to "directly and substantially," have been expunged; and the language has been much shortened by the use of the compendious expression "previously decided suit or other proceeding".

Explanation (*b*) appended to condition I aims at superseding in the sense of an Allahabad ruling [*Sri Gopal* v. *Pirthi Singh* (1897), I. L. R. 20 All. 110] a decision of the Calcutta High Court [*Woomesh Chandra Maitra* v. *Barada Das Maitra* (1900), I. L. R. 28 Cal. 17].

Sub-head (*i*) has been inserted in clause (*b*) of condition II to meet the cases in which, without the sanction referred to in clause 30, a litigant legally represents other persons, who are consequently bound by the decision. An instance will be found in the *explanation* appended to clause 368B.

An *explanation* has been added to condition IV with a view to setting at rest the doubts entertained with regard to the degree of exclusiveness attaching to the jurisdiction of Courts of Small Causes and of Criminal Courts.

By the *explanation* appended to condition V it is sought to set at rest the doubts on the question whether matter involved in a suit or other proceeding disposed of *ex parte* or notwithstanding default or on a compromise or award or upon evidence given upon oath by which the parties agree to abide, can be said to have been *heard* and finally decided for the purpose of rendering the doctrine of *res judicata* applicable.

With reference to clause 14, sub-clause (*1*), paragraph (*d*), it has been represented to us as expedient that the language of the Code should direct attention to the necessity not merely for alleging fraud but for proving it.

CHAPTER III.

OF THE COURT OF INSTITUTION.

Clause 15.—We have omitted the reference to clause 578A and the words "properly exercised under this section" as likely to occasion difficulties of interpretation. We have avoided the term "process of accumulation" [*Shamrav Pandoji* v. *Niloji Ramaji* (1885), I. L. R. 10 Bom. 200] because it is not wide enough to cover other changes such

as an increase in market-value and might, if specified, be held to exclude them. On the other hand, we have, in paragraph (*b*), expressly declared that the increase in the value here referred to must be subsequent to the institution of a suit. We have added a paragraph rendering it clear that mesne profits do not oust the Court's jurisdiction merely because their addition to the value of a suit for recovery of possession is in excess of the pecuniary limits of such jurisdiction.

Clause 16.—Now that growing crops are to be included in the definition of "moveable property", paragraph (*f*) is no longer required, more especially because, as a matter of drafting, the ground is covered by paragraph (*a*).

Clause 16A.—We think that objections under sub-clause (*2*) should be taken at the earliest opportunity; and we have sought to exclude frivolous objections by parties not substantially prejudiced by the error.

Clause 17.—In paragraph (*b*) we have substituted the words "do not object to" for the words "acquiesce in" to give effect to a ruling [*Viraragava* v. *Krishnasami* (1882), I. L. R. 6 Mad. 349] and have provided that objections to this provision must be taken at the earliest opportunity and in any case before the issues are settled.

With reference to paragraph (*c*) we have given effect to strong representations that the necessity for obtaining the leave of the Court serves no useful purpose, while it affords opportunities for obstruction and delay. In view of the definition of "cause of action", we have omitted references to "claims".

Explanation III, as it stood in the Bill, has been omitted by us as no longer required in view of the re-draft, but in spite of the doubts expressed by the High Court of Madras [*Murugesa Chetti* v. *Annamalai Chetti* (1899), I. L. R. 23 Mad. 458, at p. 466], we have considered it expedient to append an *explanation* in the sense of a Bombay ruling [*Rambhat* v. *Shankar Baswant* (1901), I. L. R. 25 Bom. 528] the effect of which has been reproduced in *illustration* (*c*).

Clauses 20 to 25.—To sub-clauses (*2*) and (*4*) of clause 20, as originally drafted, a general application has been given in our proposed clause 24A. The extended powers given by clause 25 enable us considerably to shorten clauses 20 to 23. Sub-clause (*1*) of clause 24 has been recast and amplified to provide for the case, not covered by the present section, of suits instituted in the Original Side of a High Court. While one High Court cannot well be empowered to bind another by a decision given under section 24 [compare, *Skinner* v. *Orde* (1879), I. L. R. 2 All. 241, at pp. 246-7], we think it only right that the parties to such a decision should be debarred from raising objections to it. Sub-clause (*1*) of clause 25 has been modified more particularly to cover suits and other proceedings transferred to a Court newly established. In sub-clause (*2*), we propose to authorize the High Court or District Court to declare that proceedings taken before transfer need not necessarily be taken afresh where no useful purpose would be served by repetition.

CHAPTER IV.

OF PARTIES AND THEIR APPEARANCES, APPLICATIONS AND ACTS.

We have omitted the sub-headings in this Chapter as unnecessary and inaccurate.

Clause 26.—For the word "hearing" we have substituted the word "trial" for greater conformity with Order XVI, rule 1, and have introduced a few verbal changes into the *illustrations*, of which (*c*) has more especially been criticized as expressed in language too technical for use in Indian practice.

The latter portion of sub-clause (*2*) has been transferred to a more convenient position in clause 220, sub-clause (*1*).

Clause 27.—We have thought it convenient to insert a reference to the Indian Limitation Act, 1877 (XV of 1877), section 22, the provisions of which are apt to be overlooked.

Clause 28.—The words "in respect of the same matter" have been inserted to restore the substance of the existing section in spite of the terms of Order XVI, rule 4, because rule 5 of the Order is not reproduced in the Code.

We have added an *illustration* to give effect to a decision [*Serajul Huq Khan* v. *Dinabundhu Sen* (1902), 6 Cal. W. N. 300].

Clause 30.—For the word "parties" we have substituted the word "persons" as the more appropriate expression [*The Oriental Bank Corporation* v. *Gobind Lall Seal* (1883), I. L. R. 9 Cal. 604, at p. 606]. We think, however, that the words "or implied" should be omitted so as to give effect to an Allahabad dictum [*per* Stuart, C. J., *Hira Lal* v. *Bhairon* (1883), I. L. R. 5 All. 602, at p. 604] and thereby to supersede a Bengal decision [*Dhunput Singh* v. *Paresh Nath Singh* (1893), I. L. R. 21 Cal. 180], from which it would appear that the Court's permission may be inferred from its procedure.

We have added to this clause a sub-clause reproducing the substance of clause 32, sub-clause (*3*), which appears to us to be out of place in its present position.

Clause 31.—We have restated the rule contained in this provision. The correct principle, in our opinion, is that, if possible, the Court must adjudicate between the parties before it; but, where misjoinder or non-joinder is fatal to the right to sue [compare, *Ramsebuk* v. *Ramlall Koondoo* (1881), I. L. R. 6 Cal. 815; *Rajendronath Dutt* v. *Shaik Mahomed* (1881), L. R. 8 I. A. 135; *Ghulam Kadir Khan* v. *Mustakim Khan* (1895), I. L. R. 18 All. 109], we think that every reasonable opportunity

for remedying the defect, so far as may be, should be given before the plaint is rejected or the suit is dismissed.

Sub-clause (*3*) has been transferred by us to a more appropriate position in clause 44, sub-clause (*1*).

Clause 32.—We have recast sub-clause (*1*) which has been criticized as cumbrous. To paragraph (*b*) we have added a passage showing that, even where the Court acts of its own motion, the law of limitation will apply. This amendment will have the effect of superseding the view hitherto entertained in Bengal [*The Oriental Bank Corporation* v. *Charriol* (1886), I. L. R. 12 Cal. 642; *Grish Chunder Sasmal* v. *Dwarka Nath Dinda* (1897), I. L. R. 24 Cal. 640; *Fakera Pasban* v. *Bibi Azimunnissa* (1899), I. L. R. 27 Cal. 540].

So much of sub-clause (*2*) as relates to a "next friend" has been omitted by us as finding a more appropriate place in Chapter XXXII.

Sub-clause (*3*) has been omitted in view of the addition proposed to clause 30.

We have relaxed the stringency of sub-clause (*4*), which we have re-numbered (*3*), because notice is obviously an unnecessary formality where the party has been added on his own application.

We have slightly recast the wording of sub-clause (*6*), now sub-clause (*5*), to give more precise effect to the underlying decision [*Imam-ud-din* v. *Liladhar* (1892), I. L. R. 14 All. 524].

Clause 34.—We have somewhat shortened the prolix language of the Code.

Clause 36.—For the word "appeal" we have substituted the words "other proceeding" as more exhaustive, and after the word "rule" we have omitted the words "of law" as not required.

Clause 37.—In paragraphs (*a*) and (*b*) of sub-clause (*1*) the words "general" and "special" have been omitted as unduly restrictive.

In sub-clause (*2*) a verbal alteration has been necessitated by the inclusion of the former Chief Commissionership of Oudh in the Lieutenant-Governorship of the United Provinces.

Clause 39.—In sub-clause (*2*) we have, to obviate hardship to legal practitioners, provided for the termination of an appointment by the resignation of the pleader. It has been represented to us as a common practice to enter the names of numerous pleaders in the appointment but to fee only one of them at the actual hearing.

We have amplified sub-clause (*3*) to give effect to what we understand to be substantially the practice of some of the Courts added by us to this provision.

CHAPTER V.

OF THE FRAME OF THE SUIT.

Clause 43.—We are of opinion that this clause should cover recurrent causes of action which, as in the case of mesne profits, do not arise out of contract. We have slightly shortened the concluding passage of sub-clause (*1*), with which we have amalgamated sub-clause (*2*) for greater accuracy, because we think that a plaintiff is entitled to relinquish a portion of his claim, irrespective of the question whether his object is to bring the suit within jurisdiction. We have slightly altered the provisions of this clause with a view to representing more exactly the underlying decision [*Musaheb Zaman Khan* v. *Inayat-ul-lah* (1892), I. L. R. 14 All. 513], and we have amplified the *illustration* to state more fully the principle formulated in the concluding portion of sub-clause (*1*).

Clauses 44 to 47.—We have attempted to arrange clauses 44 to 46 of the Bill in what we conceive to be a more logical order. The principle on which we have proceeded is that joinder of claims should generally be permissible, subject to the power of the Court, as defined in clause 46, to order separate trials.

Clause 44, sub-clause (*1*), which reproduces clause 31, sub-clause (*3*), we have sought to explain by an *illustration* showing that we do not desire to give effect to the interpretation of the law adopted at Allahabad [*Rahim Baksh* v. *Amiran Bibi* (1896), I. L. R. 18 All. 219; following, *Salima Bibi* v. *Sheikh Muhammad* (1895), I. L. R. 18 All. 131].

We have amalgamated, in clause 46, sub-clause (*1*), the substance of the somewhat prolix provisions of clause 45, sub-clause (*2*), and clause 46, sub-clauses (*1*) and (*2*).

Clause 47A.—The reasons for requiring objections on the ground of non-joinder or mis-joinder of parties to be taken at the earliest opportunity apply with equal cogency to objections on the ground of misjoinder of claims.

CHAPTER VI.

OF THE INSTITUTION OF SUITS.

Clause 48.—We have explicitly cast upon the person presenting the plaint the responsibility for the proper endorsement of his name, description and place of residence.

Clause 49.—This provision has been omitted because it is proposed to add to clause 645 a more generally expressed direction with respect to all pleadings.

Clause 50.—In sub-clause (*1*) we have relaxed the rigour of paragraph (*cc*), which we have re-lettered (*d*), to avoid some of the difficulties connected with any attempt to compel women and natives of this country to state their ages.

In paragraph (*d*), re-lettered (*e*), for the word "circumstances" the word "facts" has been substituted for greater conformity with the definition of "cause of action".

In paragraph (*e*), now (*f*), "prayer" has been substituted for "demand" as more in accordance with the practice of the Courts.

In paragraph (*g*), now (*h*), the words "where necessary" have been inserted to prevent any apparent inconsistency with the practice of High Courts on the Original Side in admitting plaints upon payment of a fixed fee and not of an *ad valorem* duty.

With reference to sub-clause (*2*) we think that damages are, for the present purpose, governed by the same principle as mesne profits.

We have re-cast sub-clause (*3*) to bring it into greater conformity with the Indian Registration Act, 1877 (III of 1877), section 21, sub-section (*a*).

We have omitted the *illustrations* on the ground that they are both inaccurate and useless to practitioners.

Clause 51.—We have omitted a superfluous reference to the special provisions relating to suits instituted in the name of partners.

Clause 52.—In view of proposed additions to clause 416 the reference to informations exhibited by rhe Advocate General is unnecessary.

Clauses 53 and 54.—We have collected, by a more convenient arrangement, the provisions relating, respectively, to the amendment and to the rejection of plaints.

Clause 54A.—We consider it expedient to give legislative recognition to the principle accepted in English practice that the Court is not only entitled but bound to exercise an inherent power of preventing any abuse of its procedure.

Clause 54AA.—We have not felt justified in giving effect to the Allahabad decision [*Jainti Prasad* v. *Bachu Singh* (1893), I. L. R. 15 All. 65] debarring the Court from prolonging, by action under this provision, the period ordinarily prescribed by the law of limitation. We have accordingly expunged so much of the clause as was based upon this ruling.

Clause 54B.—We have somewhat recast the wording of the Bill as the existing section 582A, upon which it was founded, does not describe the procedure with precision.

Clause 55.—We have directed attention to the duty of signature ordinarily imposed upon the Judge by existing practice.

Clause 57.—From sub-clause (*1*) we have omitted paragraphs (*b*) and (*c*) as sufficiently covered by paragraph (*a*), from which we have omitted a passage represented to us as both inaccurate and superfluous.

We have added sub-clause (*3*) to give effect to a Bombay ruling [*Prabhakarbhat* v. *Vishwambhar Pandit* (1884), I. L. R. 8 Bom. 313, overruling *Jagjivandas Javherdas Seth* v. *Magdum Ali* (1883), I. L. R. 7 Bom. 487].

Clause 57A.—We have omitted this clause as sufficiently covered by clauses 622 and 582.

Clause 57B.—We have relaxed the terms of this provision, because the statement in numbered paragraphs now required by clause 50, sub-clause (*1*), paragraph (*e*), cannot conveniently be reproduced in the form prescribed by the Third Schedule, No. 116.

Clause 58.—We have substituted "lists" for "memoranda," not merely for greater conformity with clause 59, sub-clause (*2*), and clause 138, sub-clause (*2*), but for the lightening of legal expenses by the elimination of what is in practice a useless labour. The substitution of the words "prayed for" for the word "required" follows a similar amendment in clause 50, sub-clause (*1*), paragraph (*f*).

In sub-clause (*5*) we think that all the reasonable requirements of practice will be satisfied if the documents there referred to are certified to be correct by the plaintiff or his pleader instead of being verified in the manner provided for the verification of plaints.

Clause 62.—We have substituted "Judge" for "Court", because the duty of marking involves a personal act which cannot be performed by a Bench. We think, moreover, that the expression "attesting", which occurs in the existing Code, should be avoided in view of the technical meaning assigned to "attestation" in connection with documents.

Clause 63.—It has been represented that in the present Code the principle has been too rigorously enunciated, and we have, therefore, altered sub-clause (*1*) from the prohibitive to the permissive form. At the same time, we have omitted sub-clause (*2*) because, in view of this amendment, the provisions of clause 138, sub-clause (*5*), are sufficient.

CHAPTER VII.

OF THE ISSUE AND SERVICE OF SUMMONS.

Clause 66.—The existing section 67, reproduced in the Bill as sub-clause (*3*), has been criticized not merely as cumbrous and involved, but also as arbitrary in principle and as leading in practice to anomalous results. We have, at the representation, more especially, of the Governments of Burma and Madras, extended the scope of the section to cover modes of communication other than those by railway; and, in the case of journeys by public conveyance, we have substituted a time-limit for the present standard by mere distance. This will enable the Court to determine questions arising under this provision by the more convenient method of referring to a time-table.

Clause 69.—The *explanation* has been omitted as redundant.

Clause 70.—We have abridged this provision because, while the defendant should certainly produce all documents in his possession or power in so far as he relies on them in support of his case, it seems to us unreasonable to require him to produce any document merely because it may relate to the merits of the case for the plaintiff.

Clause 71.—The addition proposed by us is intended to prevent obstructive delay by the device of obtaining an adjournment for documents which the defendant could easily obtain and intends eventually to produce.

Clause 72.—The word "registered" has been omitted as already covered by the General Clauses Act, 1897, section 27.

Clause 78A.—We have transferred the existing section 167 to this Chapter, because we think that it should apply to the issue and service of summons in the case of a defendant as well as of a witness, to whom it will still extend by virtue of clause 166.

Clause 80.—We have brought this clause into closer conformity with clause 17, the principle of which is, in our opinion, equally applicable to the service of process. A similar alteration will be found inserted in clause 83. The words "if any" have been inserted, here as elsewhere in clause 81, between the words "person" and "identifying," because the Code should not render absolutely illegal the service of process without an identifier, where local experience justifies the High Court in issuing no directions for such a safeguard. We have slightly recast the proviso for purposes of greater accuracy.

Clause 85.—Sub-clause (*1*), paragraph (*b*), has been expanded in view of the inconvenience of limiting the power, here given, to personal presentation by the plaintiff himself.

Clause 87.—The language has been considerably shortened in view of the more general provision which we have inserted as clause 90AA.

Clause 89.—The word "sent" has been substituted for the word "forwarded" for greater conformity with the terms of the General Clauses Act, 1897, section 27.

Clause 90.—The language has been slightly modified to relieve the Court of the labour of personal signature. The *illustration* has been omitted, because we doubt whether diplomatic arrangements, which happen to be in force at the present moment, can appropriately be stereotyped in an enactment. The underlying difficulty of practice could, in our opinion, be more suitably met by the issue of instructions to subordinate Courts.

Clause 90A.—It has been deemed desirable, for greater clearness of procedure, to provide in the Code itself that process served under this clause shall be accompanied by a copy to be retained by the defendant.

Clause 90AA.—The duty to serve process transmitted for that purpose, and the admissibility in evidence of proceedings recorded thereon, have been given a more general application.

Clause 92B.—The language of sub-clause (*2*) has been harmonized somewhat more closely with the General Clauses Act, 1897, section 27.

We have substituted "not permitted" for "estopped" because the propriety of so technical an expression in this connection has been questioned.

In sub-clause (*3*) we have made additions extending the principle to proof of the agent's signature and at the same time preventing a possible misconception with regard to the admissibility of the evidence of an eye-witness.

Clause 93.—In sub-clause (*2*), for the word "levied" the word "paid" has been substituted to cast the duty here contemplated more directly upon the party.

Clause 95.—We have extended this provision to cover the postal receipts now given, as an additional safeguard, by the Post Office on payment of a fee.

CHAPTER VIII.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

Clause 96.—The language has been modified in this and similar clauses to remove the misapprehension that the Court is bound to hear the suit at a specific hour.

Clause 98.—The reference to adjournment has been omitted because this matter is sufficiently covered by the terms of clause 157. A similar alteration will be found in clause 104.

Clause 103.—References to the legal representative, and to the Court to which the business of the Court dismissing he suit has been transferred, have been inserted for closer conformity with clause 108.

Sub-clause (*2*) was originally inserted to remove doubts expressed in regard to the legal soundness of a decision [*Lalla Sheo Churn Lal* v. *Ramnandan Dobey* (1894), I. L. R. 22 Cal. 8] which has, however, been approved [*Cursandas Natha* v. *Ladkavahu* (1895), I. L. R. 19 Bom. 571, at p. 577; see also *Hanmantapa* v. *Jivubai* (1900), I. L. R. 24 Bom. 547, at p. 552]. We think that the matter may be left as settled by case-law and have omitted the sub-clause.

Clause 104.—We have inserted the words "in British India" after the word "agent" to prevent the recurrence of misconception with regard to the meaning of this provision.

Clause 107.—The reference to clause 436A, which seems to us somewhat out of place in this Chapter, has been omitted in view of the addition proposed by us to the clause in question.

Clause 108.—In order to supply an omission occasioning inconvenience in practice, sub-clause (*1*) has been expanded to meet the case of transfer of business to another Court.

The language of sub-clause (*2*) has been rendered slightly clearer, and sub-clause (*3*) has been omitted, inasmuch as the matter can be more appropriately treated in Chapter XX.

CHAPTER IX.

OF WRITTEN STATEMENTS, SET-OFF AND COUNTER-CLAIM.

This Chapter, the arrangement of which in the present Code presents some confusion, has been recast in a more logical sequence.

Clause 110.—In sub-clause (*3*) effect has been given to existing practice by provision for grounds of law in the written statement. It is thought that the requirements of section 63 can without impropriety be rendered applicable, ***mutatis mutandis***, to documents in the possession of the defendant, who is stated to have at present an undue advantage in this matter over the plaintiff.

Clause 113.—The penalty provided by the existing section for a defect in procedure appears to us to be unduly severe. We think that the defaulting party should be placed in no worse position than that occupied by him on failure to comply with any order to answer interrogatories or to give inspection.

Clause 111.—In sub-clause (*1*), it has been considered desirable to render it clear that a written statement pleading a set-off or counter-claim is subject to the law of limitation applicable to a plaint in a cross-suit. By an amendment of the Fourth Schedule, we propose to render the set-off or counter-claim liable to the same court-fees as a plaint. These changes are essential in view of the provisions suggested by us in sub-clause (*4*), which we have renumbered as sub-clause (*9*).

We would depart from English practice inasmuch as we have proposed to render the convenience of the Court the short and simple test of the question whether the defendant should or should not be allowed to avail himself of his set-off or counter-claim in respect of which the Court has jurisdiction. We think that the words "or ought to be allowed", as originally inserted in the Bill, would occasion much difficulty of construction.

With reference to sub-clauses (*3*) to (*7*), we consider it inexpedient, in view of the constitution of the Courts and the circumstances of litigation in this country, to adopt in its entirety the English practice originally reproduced in the Bill with regard to set-off or counter-claim involving matter beyond jurisdiction. We have thought it preferable, more especially with the object of avoiding difficult questions of ***res judicata***, to insist upon transfer to a competent Court, unless, of course, the defendant chooses to relinquish so much of the set-off or counter-claim as is beyond jurisdiction.

We have re-cast the proviso to sub-clause (*3*), now re-numbered (*8*), in order to give effect to the rulings [*Pringle* v. *Gloag* (1879), L. R. 10 C. D. 676; ***Brijnath Dass*** v. *Juggernath Dass* (1879), I. L. R. 4 Cal. 742] which suggested the corresponding passage in the Code but were not reproduced therein.

The effect of our proposals is to limit set-off and counter-claim to matters within the jurisdiction of the same High Court, and, even in their case, the Court must be of opinion that the trial of such set-off or counter-claim is convenient. In these circumstances, provision has to be made for cases in which the defendant is precluded from availing himself of his set-off or counter-claim upon which, however, he may have paid the court-fees required by the addition proposed by us in the Fourth Schedule. In such an event, we would apply the principle accepted by us in clause 57, sub-clause (*3*), and clause 543F, sub-clause (*3*), of requiring no further court-fee upon a plaint or memorandum of appeal returned to be presented to the proper Court.

CHAPTER X.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

Clause 117.—Sub-clause (*1*) has been recast because the provisions as to admission and denial should apply equally to the plaint and to the written statement.

We would give express recognition in sub-clause (*2*) to the existing practice according to which the Judge authenticates the record of an admission or denial of parties by his signature.

Clause 120.—To remedy a defect disclosed by practice we have inserted a mention of persons accompanying the pleader such as are referred to in clause 118. We have further directed attention to the provisions of clause 66, sub-clause (*3*), which might otherwise be overlooked [*Maharajah Juggud Inder Bunwaree* v. *Soorjcoomar Chowdhree* (1863), Marsh. 627].

Sub-clause (*2*) has been relaxed on the lines of clause 136 for the reasons given under clause 113.

CHAPTER XI.

OF DISCOVERY AND OF THE ADMISSION, INSPECTION, PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS.

Clause 124.—We have added sub-clause (*1*) because, in spite of the wording of the Government of India Act, 1858 (21 & 22 Vict., c. 106), section 65, the case of the Secretary of State for India in Council is not very clearly covered by the procedure prescribed in the existing section.

Clause 126.—We have inserted this clause before clause 125 for the sake of more logical arrangement.

Clause 125A.—We propose to allow the Court to extend the period of seven days in order to meet possible cases of hardship.

Clause 128.—The rule should be that the party refusing should always bear the expense of proving the document unless the Court otherwise directs. We have accordingly omitted from sub-clause (*3*) the passage rendering such liability dependent upon the Court's opinion of the reasonableness of the admission. The alteration gives more precise effect to Order XXXII, rule 2.

Clause 131.—We have considered it expedient to limit the excessive generality of sub-clause (*1*), and have omitted sub-clause (*3*) because the necessity for the underlying decision [*Ram Dyal Saligram* v. *Nurhurry Balkrishna* (1894), I. L. R. 18 Bom. 368] seems to us to be obviated by sub-clause (*1*) as re-worded.

Clause 134B.—A reference to the second paragraph of the Indian Evidence Act, 1872 (I of 1872), section 162, which otherwise might be taken to be superseded, has been inserted.

Clause 136A.—It has been considered safer to invest next friends or guardians for the suit with express power to make affidavits under Chapter XI on behalf of minor parties or parties of unsound mind.

Clause 137.—Sub-clause (*3*) has been added to provide for certain cases in which, as a matter of practice, the obligation, impliedly assumed in the Code, to comply immediately with requests under this clause, would be productive of inconvenience and danger.

Clause 138.—We propose to give effect to a convenient practice by explicitly allowing the Court to fix a period later than the first hearing of the suit. For the sake of uniformity we have substituted the words "evidence in support of" for the words "essential to"; but, with reference to the decisions [*Minakshi* v. *Velu* (1885), I. L. R. 8 Mad 373; *Ranchod Haribhai* v. *The Secretary of State for India* (1897), I. L. R. 22 Bom. 583] underlying the words thus cancelled, we have added sub-clause (*5*).

Clause 142A.—This provision has been transferred to follow clause 138 for the sake of more logical arrangement.

In sub-clause (*2*) the word "persons" has been substituted for the word "parties", because persons other than parties are constantly required to produce documents. A similar amendment has been made in clause 144, sub-clause (*2*).

Clause 141.—Signature in full is usually unnecessary and, in the case of certain documents, actually impossible. We have, therefore, recognised existing practice by making provision for the initialling of endorsements. A similar amendment has been made in clause 142.

Clause 141A.—A saving of the Bankers' Books Evidence Act, 1891 (XVIII of 1891), seems to be required here as in clause 62, sub-clause (*1*). The opinions of officers consulted disclose a strong feeling in favour of extending the provisions of this clause to letter-books, without reference to which a business cannot, in many instances, be properly conducted. Here, as elsewhere, we have substituted a certificate for attestation.

Clause 144.—In sub-clause (*1*), paragraph (*b*), provision has been made for reviews which, for the present purpose, stand on the same footing as appeals. In practice it is understood that a person receiving back a document after delivery of a certified copy undertakes, as we propose to direct by our addition to the second proviso, to produce the original if so required.

From sub-clause (*2*) we have omitted the provisions about the receipt-book as details better suited for administrative instructions.

CHAPTER XII.

OF THE SETTLEMENT OF ISSUES.

Clause 146.—The addition to the *explanation* is rendered necessary by the terms of clause 111 as redrawn.

Clause 148.—A reference to clauses 66 and 176, which are not unlikely to be overlooked, has been inserted.

It has been represented that the expression "hands", which occurs in the existing Code, is less familiar and less accurate than "possession".

Clause 149.—We think that issues should not be amended, added or struck out without hearing any objection which the parties or their pleaders may desire to advance.

For the purposes of this clause, moreover, the parties appear to us to stand on the same footing in the sense that the Court should not be authorized to convert a defence into a defence of a different and inconsistent character.

CHAPTER XIII.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

Clause 155.—For the words "at once deliver judgment" the words "proceed to try and decide the suit forthwith" have been substituted to render it clear that the judgment must be based upon the materials before the Court.

CHAPTER XIV.

OF ADJOURNMENTS.

Clause 156.—The language of the existing Code is inconvenient and inaccurate in treating the postponement of the hearing from one day to the next as not included in "adjournment".

Clause 157.—We have inserted a provision with reference to costs ordered to be paid before an adjourned hearing with a view to enabling the Court to deal with the device of obtaining an adjournment, not otherwise admissible, upon an undertaking, which is afterwards ignored with impunity, to pay the costs occasioned to the opposite party by such adjournment.

Clause 158.—The words "try and" have been inserted for conformity with clause 155 and for the reason noted thereunder.

CHAPTER XV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

Clause 159.—It has been represented to us that the procedure prescribed by the existing section has proved to be productive of inconvenience and delay, and is, therefore, no longer in accordance with actual practice, to which we have sought to give legislative recognition in our redraft.

We have omitted the third proviso which does not appear to us to be strictly necessary and has been misread as intended to confer an additional right of appeal.

Clause 165.—The reference to the law of evidence has been inserted to direct attention to the duty of the Court, more especially in cases of privilege.

Clause 165A.—For the word "named" the word "called" has been substituted to meet the device of entering the names of inconvenient persons in the lists of witnesses and then refusing to call them.

Clause 168.—The coercive provisions of this clause should be applicable to persons intentionally failing to cause documents to be produced even though their personal attendance is not required.

Clause 170A.—This clause has been omitted as unnecessary in view of the amplified provision proposed to be inserted as clause 178A.

Clause 170B.—We have expunged the reference to clause 283 because we propose to omit that provision and to abolish the remedy, there contemplated, by way of regular suit.

Clause 173.—In view of the possible necessity for recall we think that witnesses should be required, as a general rule, to attend at each hearing until the suit has been disposed of. It is a common practice involving no hardship for a witness desirous of departing earlier to obtain the express permission of the Court.

With reference to sub-clause (*2*), we think that payment into Court is insufficient, and that payment through the Court to the person concerned should be a condition precedent to action. On the other hand, to render the provision effective, we propose to permit detention in the civil prison in default of entering into recognizances.

Clause 174.—We have slightly modified the language for conformity with clause 173, sub-clause (*2*), as amended.

Clause 176.—The language of this clause has been modified to correspond with clause 66, sub-clause (*3*), paragraph (*b*).

Clause 177.—As in other cases of default, we have assimilated the penalty to that prescribed in clause 136, sub-clause (*1*).

CHAPTER XVI.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

Clause 178B.—The language of sub-clause (*1*) has been slightly altered to render it clear that the principle of this provision is not affected by the mere circumstance of the admission by the defendant of one out of several prayers for relief.

Clause 179.—Sub-clause (*5*) seeks to give effect to what is understood to be the almost invariable practice outside the presidency-towns.

Clause 182.—We think it desirable to enact expressly that depositions should be read over in open Court. It is not sufficient to read them over, for example, in the course of miscellaneous business transacted in the Judge's office or retiring room. On the other hand, we have omitted the passage requiring the presence of the parties or their pleaders, since we are strongly of opinion that the validity of a deposition should not be vitiated by the departure of litigants or practitioners who, if they desire to object to the record, should remain in attendance. We have further made a slight alteration to cover the case of errors in depositions recorded in the vernacular which, in point of practice, are not usually corrected by the Judge himself. A similar alteration has been made in clause 192, sub-clause (*2*).

Clause 185.—The words "if required by any of the parties" have been inserted because, as a matter of fact, litigants are usually content with the English record.

Clause 185A.—We have rendered this provision permissive instead of leaving it imperative, because we think that the Judge should always have it in his power to direct, where necessary, a full record of the deposition in the manner prescribed by clause 182. In these circumstances, we see no necessity for retaining sub-clause (*2*). We have expunged the passage authorizing revocation or variance of directions because the matter is covered by the General Clauses Act, 1897, section 21, as expanded by the Repealing and Amending Act, 1903 (I of 1903).

Clause 187.—We have sought to obviate all discussion in respect of the importance of particular questions and to confirm once for all the principle that a Court has discharged its duty by noting the words "objected to".

Clause 189A.—In the interests of the despatch of public business, we consider it desirable, as in the case of clause 54A, to direct the attention of the Courts to their duty to control the proceedings before them and to exercise their inherent power of preventing its process from being abused.

Clause 191.—We have extended the provisions of this clause to evidence taken on issues referred under section 566, to which the principle appears to us to be equally applicable.

Clause 192.—The word "hereinbefore," which occurs in the existing Code, excludes the application of this provision to evidence taken on commission to which we think that it ought to extend.

Clause 193.—We have modified sub-clause (*1*) and expunged the whole of sub-clause (*2*) in order to confer upon the Court the widest powers of recall.

Clause 193A.—We think that this provision should be limited to analogous suits in the same Court, and we have omitted the second proviso as sufficiently covered by clause 203A.

CHAPTER XVIII.

OF JUDGMENT AND DECREE.

Clause 198.—We have shortened the language of sub-clauses (*1*) and (*2*) of the original Bill and combined them in one sub-clause, more particularly in view of the general provisions of clause 645.

From sub-clause (*3*) we have omitted the proviso, which, notwithstanding the corresponding passage in the Code of Criminal Procedure, 1898 (Act V of 1898), section 366, sub-section (*4*), appears to us to be superfluous.

Clause 199.—We propose to prohibit in future the practice recognized in a local decision [*Raja Muhammad Mumtaz Ali* v. *Deo Narain* (Oudh Select Case No. 200)] of allowing a judgment to be written by a predecessor who has been relieved of his office.

Clause 199A.—We have abridged sub-clause (*1*) and omitted sub-clauses (*3*) and (*4*) in view of the opposition of some of the Chartered High Courts to the delivery by subordinate Courts of oral judgments, for which provision was made upon a strong representation received from the Government of Madras in 1896. The wording of the Bill will still enable the object then expressed by that Government to be effected to this extent, that the Judge will be able to dictate a decision to a shorthand-writer. It will, however, be necessary for the judgment so dictated to be transcribed and to be in every respect ready for signature before it is delivered.

Clause 202.—The words "and signed" have been inserted because delivery often directs attention to errors and omissions which can most conveniently be then and there corrected before the signature of the Judge is appended.

Clause 203A.—Some verbal alterations have been introduced for the sake of uniformity with clause 193A.

Clause 205.—We have limited sub-clause (*1*) to suits and other proceedings triable as suits to render it clear that a formal decree containing all the particulars prescribed by section 206 of the Code, now re-numbered as clause 205, sub-clause (*5*), need not be drawn up in the various proceedings which, while technically ending in "decrees", have really been declared so to end only for purposes of appeal. The reference to the language, in which the decree must be drawn up, has been omitted in view of the addition proposed to clause 645.

In sub-clause (*2*) we have added certain articles of the second schedule to the Indian Limitation Act, 1877, which appear to us to be required for the sake of completeness.

We have included clause 206 as sub-clause (*5*) of clause 205, since it plainly relates to one and the same subject. Paragraph (*d*) has, however, been omitted in view of local opposition because the ruling contemplated thereby [*Niamut Khan* v. *Phadu Buldia* (1880), I. L. R. 6 Cal. 319] is impliedly, though not expressly, superseded [*Run Bahadur Singh* v. *Lucho Koer* (1884), I. L. R. 11 Cal. 301]. In these circumstances we do not feel justified in retaining the paragraph which would have, it is said, the effect of greatly increasing the labour of the Court in the preparation of decrees.

Clause 206A.—To sub-clause (*2*) two provisos have been added, precluding amendment of a decree in so far as an appeal has been preferred against it or the decree has been executed. Where an appeal has been preferred, the appellate decree will, under clause 579A, supersede that of first instance; and inconvenience would arise if restitution had to be made of assets realized in execution and perhaps rateably distributed in satisfaction of another decree.

The language of sub-clause (*3*), which was criticized as slightly obscure, has been modified accordingly.

In sub-clause (*4*) we have attempted to settle the very disputed question of the appropriate remedy against an improper exercise of the powers conferred by the clause. We think that no appeal should lie from an order refusing to amend a decree, but where a decree would, if passed on the day of the amendment, have been open to appeal, an appeal should lie from it in so far as it has been amended. Our conclusion is in accordance with a Madras ruling [*Visvanathan Chetti* v. *Ramanathan Chetti* (1901), I. L. R. 24 Mad. 646].

Clause 207.—The language has been harmonized with that of clause 50, sub-clause (*3*), as amended.

Clause 210.—To sub-clause (*1*) we have appended a proviso giving effect to a ruling of the High Court of Bombay [*Ragho Govind Paranjpe* v. *Dipchand* (1879), I. L. R. 4 Bom. 96].

With reference to sub-clause (*2*) we are of opinion that it would be inconvenient to give the benefit of the power here conferred to a judgment-debtor who has taken the decree to appeal. We think, moreover, that an order once made under sub-clause (*2*) should not be cancelled or varied by the Court otherwise than with the consent of both parties.

Clause 211.—We have amalgamated clauses 211 and 212 as originally drafted in one provision.

Sub-clause (*3*) supersedes the view entertained at Calcutta [*Mon Mohun Sirkar* v. *The Secretary of State for India in Council* (1890), I. L. R. 17 Cal. 968] in the sense of that accepted at Madras [*Ramabhadra* v. *Jagannatha* (1890), I. L. R. 14 Mad. 328, at p. 333].

Sub-clause (*4*) seeks to regulate jurisdiction in accordance with the principle adopted at Calcutta [*Rameswar Mahton* v. *Dilu Mahton* (1894), I. L. R. 21 Cal. 550] on the lines of the amendment introduced into clause 15.

Clause 213.—The addition in sub-clause (*2*) of the words "or declared" is intended to cover declarations under Chapter XXI in addition to adjudications under the Indian Insolvency Act, 1848 (11 & 12 Vict., c. 21). As there are various systems of insolvency relief in force in British India, we have considered it expedient to state that the rules there referred to are those in force within the local limits of the Court's jurisdiction and are not to be taken, as might otherwise be supposed, to be those contained in Chapter XXI.

Clause 214.—We have considerably altered the form of the existing section which has been criticized as wholly inadequate.

In sub-clause (*1*), paragraph (*b*), the power of the Appellate Court to specify another day [*Parshadi Lal* v. *Ram Dial* (1880), I. L. R. 2 All. 744; *Kodai Singh* v. *Jaisri Singh* (1889), I. L. R. 13 All. 376] has been recognized, and in sub-head (*i*) of the same paragraph the duty of executing and registering any necessary instrument [*Ramasami Pattar* v. *Chinnan Asari* (1901), I. L. R. 24 Mad. 449, at page 463], has been enjoined upon the defendant.

In sub-clause (*2*) provision has been made for the form of decrees in the case of claims decreed in favour of rival pre-emptors [*Kashi Nath* v. *Mukhta Prasad* (1884),

I. L. R. 6 All. 370; *Hulasi* v. *Sheo Prasad* (1884), I. L. R. 6 All. 455; *Ajaib Nath* v *Mathura Prasad* (1888), I. L. R. 11 All. 164].

Clause 215.—The preliminary decree passed in a suit for dissolution of partner ship should always contain a declaration of the rights of the parties.

Clause 215B.—We have re-cast this clause for the sake of greater clearness and closer conformity with clause 265. We would mention that certain local enactments, by which jurisdiction to effect "imperfect partition" of revenue-paying land is reserved exclusively to the Revenue Courts, contemplate a procedure inconsistent with this clause. Such enactments, however, will be saved by the terms of clause 4.

Clause 216.—Sub-clause (*1*) has been modified in view of the amendment of clause 111. This alteration obviates the necessity for sub-clause (*3*), which has accordingly been omitted.

Clause 217.—The slight amendment introduced by us gives effect to what we understand to be an obviously necessary practice of the Courts.

CHAPTER XIX.

OF COSTS.

Clause 219.—Proceedings other than suits frequently terminate in orders not supported by a formal judgment as defined in clause 2, paragraph (*p*). We think that such orders should equally contain directions with respect to costs.

Clause 220.—We have prefixed to sub-clause (*1*) a saving of other provisions, such as, for example, clause 128, sub-clause (*2*).

The proviso to sub-clause (*2*), which we have somewhat amplified, should, we think be declared, by an addition to clause 638, not to apply to a Chartered High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, because it conflicts with the rules of the High Court at Calcutta on the subject, and clause 206 has already been declared, for the same reason, to be inapplicable.

CHAPTER XX.

OF THE EXECUTION OF DECREES AND ORDERS.

We have very materially altered the arrangement of this Chapter which, as it stands in the present Code, appears to us to have fallen into some confusion.

Clause 222B.—It is expedient to declare that the provisions of this Chapter apply not merely to decrees but to orders capable of execution. We have, therefore, added the words "and orders" to the title.

Clause 222C.—In this clause we have reproduced the second portion of section 649 which appears to us to be misplaced in the present Code. In paragraph (*a*), however, we have substituted the expression "Court of first instance" for "Court which passed the decree from which the appeal was preferred." Our reason is that, as a matter of practice, the Court of intermediate appeal never executes a decree passed in second appeal.

Clause 223.—We have in this and the ensuing clauses proposed an important simplification of procedure by substituting execution by precept for the existing procedure by transfer of the decree. The germ of this amendment was contained in clause 223B of the original Bill relating to attachment by precept in anticipation of the transfer of the decree with a view to enabling execution to proceed simultaneously in more than one district, as was ruled to be permissible under Act VIII of 1859 [*Saroda Prosaud Mullick* v. *Lutchmeeput Singh Doogur* (1872), 14 Moo. I. A. 529, at pp. 538-9]. On the analogy of the County Court procedure of execution by warrant, we would give legislative recognition to the principle that the Court which passed the decree is throughout responsible for seeing it enforced. The circumstances of litigation in this country render it expedient, of course, that the Court executing a decree not passed by it should have jurisdiction to entertain objections not affecting the legality or propriety of the order in pursuance of which it is acting. At the same time, we consider that this safeguard can be maintained without the cumbrous and antiquated procedure by transfer of the decree. According to this procedure, the Court which passed the decree is, after transfer, virtually deprived of control until the decree is returned and, to all intents and purposes, execution is everywhere in suspense except in the particular Court which happens to have the decree on its file. In our opinion, such a result, which seriously affects the chances of realization and adds greatly to the expenses eventually to be borne by the judgment-debtor, is not justified by any compensating advantage. Excessive realization, which the system was primarily intended to prevent, can be quite as effectively obviated by reserving the power of ordering attachment or sale, as we suggest, to the Court which passed the decree and which will not issue a precept for either of these purposes unless, looking to the amount of assets obtained from all sources, it considers such action to be necessary.

Clause 223A.—The limitation upon jurisdiction, which we propose to insert as paragraph (*b*) of sub-clause (*1*), is essential to avoid complicated questions of *res judicata* in view of the extensive powers of disposing of claims and objections which are conferred by clauses 278 and 331.

We have not retained sub-clause (*6*), because the matter appears to us to be sufficiently covered by the provisions relating to jurisdiction as a whole.

Sub-clause (7) has also been omitted, because we are of opinion that it might tend to encourage judgment-debtors to obstruct proceedings by futile applications for transfer.

The *explanation* added by us is intended to give effect to a Calcutta decision [*Rameswar Mahton* v. *Dilu Mahton* (1894), I. L. R. 21 Cal. 550].

Clause 223B.—This provision, instead of conferring an exceptional power, will in future supply the normal procedure in execution. In order to guard against indiscriminate resort to concurrent execution in more than one Court, we have suggested that the issue of precepts for this purpose shall be justified by a record of reasons. The Court executing a precept of arrest will, of course, not be authorized to send away the prisoner to the Court issuing such precept but, as is at present the case with arrest under a transferred decree, will dispose of any objections within the scope of its powers, and, if it does not release the person arrested, will order his detention in the local prison. A precept to attach property, moreover, will not enable the Court executing such precept to proceed to sale. The mechanical guarantee, which we propose against excessive realization, is that the Court, which passed the decree and is responsible for its execution, must, in each case, separately decide whether property, which has been attached, ought also to be sold to make up any deficiency still outstanding.

Clause 223C.—The adoption of the precept system enables us to cancel, at one stroke, almost all the elaborate conditions of transfer as embodied in section 223 and somewhat amplified in clause 223C of the Bill. Sub-clauses (*4*) and (7) of that clause have been incorporated in clause 223B as sub-clauses (*2*) and (*3*). Sub-clause (*3*) will be found, in a more exhaustive form, as sub-clause (*4*) of clause 244A.

Clause 224.—Most of the particulars required to enable a Court to execute a transferred decree are unnecessary in the case of a precept. We see no advantage in fettering the discretion of the High Courts in regulating the procedure of Courts subordinate to them. We propose, therefore, to omit clause 224 and to leave the High Courts to prescribe the form of precept as local circumstances may require.

Clause 226.—Clauses 223A and 223B sufficiently indicate, we think, the Courts to which precepts can and should be issued. We have proposed, therefore, the omission of this provision. The power of transfer which clause 226, paragraph *(a)*, reproduced from the present Code will, in future, be exercised under the expanded terms of clause 25.

Clause 244.—From sub-clause (*1*), paragraph (*a*), the reference to "three years" has been omitted as relating only to existing provisions in regard to mesne profits which have been excluded from the Bill.

The object of the insertion of *explanation I* is to remove a long-standing conflict of decisions with respect to which the most recent rulings from Madras [*Ramaswami Sastrulu* v. *Kameswaramma* (1900), I. L. R. 23 Mad. 361] and Allahabad [*Kalka Prasad* v. *Basant Ram* (1901), I. L. R. 23 All. 346] are directly at variance.

Explanation II gives effect to recent decisions of the High Court of Calcutta [*Dwar Buksh Sirkar* v. *Fatik Jali* (1898), I. L. R. 26 Cal. 250; *Ganga Das Seal* v. *Yakub Ali Dobashi* (1900), I. L. R. 27 Cal. 670].

We have extended the original *explanation II*, now re-numbered *III*, to cover the analogous case of execution against any person not in the capacity of a legal representative, but in virtue of possession of the estate of a deceased judgment-debtor.

Clause 244A.—Sub-clauses (*1*), (*2*) and (*3*) reproduce in somewhat altered language the substance of clause 228, sub-clauses (*3*), (*1*) and (*2*), of the original Bill. We have amplified sub-clause (*1*), now re-numbered (*2*), to render it clear that the powers of the Court to which a precept has been issued are not merely ministerial but extend to the decision of questions relating to execution. Clause 228, sub-clause (*4*), has been entirely omitted. It was intended to enable the holder of a transferred decree to follow assets from jurisdiction to jurisdiction without intermediate retransfer, in each instance, to the Court which passed the decree. The more direct system of execution by precept obviates the necessity for this provision.

Sub-clause (*4*) represents the original clause 223C, sub-clause (*3*), as adapted to the precept system.

Clause 257A.—The Bill, as introduced, declared agreements made in contravention of this provision to be "illegal" and not merely "void" in the sense of being incapable of being enforced by way of execution only as opposed to recovery by regular suit as upon a fresh contract. We propose to revert to the existing interpretation by which the penalty for want of sanction is confined to incompetency to obtain recognition for the agreement in the Court executing the decree.

On the other hand, we think that, where an agreement complies with the requirements of this provision, the greatest facility should be given to have its terms enforced by the cheap and summary process of execution. We propose, therefore, to authorize the Court to execute the agreement, even though the relief granted is beyond the ordinary limits of its jurisdiction and though the original proceedings in execution of the decree have terminated.

Clause 258.—We have added sub-clause (*4*) to meet a Bombay decision [*Chintaman Ramchandra* v. *Dareppa* (1890), I. L. R. 14 Bom. 506].

Clause 230.—We have broken up clause 230 into separate clauses because the discretion of the Court to refuse concurrent execution against the person and the property of the judgment-debtor and the limitation imposed upon the grant of execution in certain cases appear to us to relate to perfectly distinct matters. Sub-clause (*2*) has been transferred, as clause 230A, to a more appropriate position under the head of *Procedure in execution.* In sub-clause (*3*), which has been re-numbered clause 230B, we have, as in other passages, extended to charges the provisions relating to mortgages. In the text of this provision we have incorporated the substance of paragraphs (*d*) and (*e*) of the Bill which seem to us to be unnecessarily elaborate.

Clause 231.—In sub-clause (*1*), paragraph (*b*), we have modified the language with a view to rendering it clear that the interest there referred to is an interest determined by the decree itself.

Clause 232.—The words "if that Court thinks fit" have been omitted, because we are of opinion that, where the conditions specified in this provision are satisfied, the right to apply for execution should be absolute and should not depend upon the discretion of the Court.

Clause 234.—Exception has been taken to the terms of section 210 of Act VIII of 1859 which the Bill proposed to revive by allowing an alternative remedy against the estate of a deceased judgment-debtor. We think that the criticisms will be met by substituting a remedy against the person in possession of the estate. A similar alteration will be found in clause 248.

Clause 235.—In view of the redistribution of this Chapter, we have incorporated as sub-clause (*1*) of this provision a portion of clause 256 of the Bill relating to oral application for immediate execution of a decree for the payment of money. The action to be taken thereon by the Court will be found described in clause 256 under the head of *Procedure in execution.*

In this connection, it will be observed that we have removed the money-limit of Rs. 1,000 which, it is thought, is arbitrary and inconvenient. In many cases, the larger the judgment-debt, the more urgent the necessity for immediate arrest. On the other hand, with a view to rendering the procedure more effectual, we have dispensed, in clause 256, paragraph (*a*), with the prior preparation of a warrant where the judgment-debtor is within the precincts of the Court.

In sub-clause (*2*) effect has been given to existing practice by requiring the signature in addition to the verification of the party.

In sub-clause (*2*), paragraph (*j*), we have somewhat amplified the details to be specified in the application, with regard to the particular mode of execution, more especially in view of the proposed procedure by garnishment of debts and charging of stock.

There seems to be a consensus of opinion that sub-clause (*2*) of the original Bill, which required every application to be accompanied by a certified copy of the decree, was too stringent, inasmuch as the production of a certified copy can rarely be necessary where the original decree is in Court. The subordinate tribunals, however, are in the habit of transmitting their records at stated periods to a record-room at head-quarters. To meet cases in which the decree has thus passed out of the Court's custody, we have provided that the applicants may be required to produce a certified copy.

Clause 237.—The language has been re-cast for closer conformity with clauses 50 and 207.

Sub-clause (*2*) has been omitted, because a verification separate from that prescribed by clause 235 does not appear to be necessary.

Clause 238.—We propose to give the Courts an option in requiring extracts since these do not in all cases appear to be required but have the effect of adding to the expenses of legal proceedings.

Clauses 238A to 243B.—We have transferred hither the substance of clause 546, sub-clause (*1*), as clause 238A, and clause 545, sub-clause (*2*), as clause 243B. These provisions appear to us to be out of place in the Chapter relating to appeals.

Clause 238B, which is founded upon clause 228, sub-clause (*3*), and clause 239, sub-clause (*2*), ought, we think, to be grouped with clause 243 under the head of *Stay of execution.* In these circumstances, clause 243A, which consolidates the provisions of clause 239, sub-clause (*3*), and clause 243, so far as they relate to stay, has been rendered applicable to both provisions.

Clause 242 has been omitted as unnecessary if decrees are no longer to be transferred.

With regard to the provisions thus re-arranged, we would remark that, in clause 243A, we have sought to render it plain that, where a condition precedent is infringed, execution must continue as a matter of course, whereas conditions subsequent may be enforced like decrees.

Clause 245.—The term "amended", which was reproduced in sub-clause (*1*) as originally drafted, does not cover the "remedying of a defect" such as the omission to produce a copy required under clause 235.

With regard to sub-clause (*2*), the Bill declared, in view of a Calcutta decision [*Gopal Sah* v. *Janki Koer* (1895), I. L. R. 23 Cal. 217] that, until an application

returned under this clause is presented with such amendments as the Court may have required, it shall not be deemed to be in accordance with law. We propose to relax the stringency of this rule and to date back the application to the time of its original presentation on the lines followed in clause 53, sub-clause (*3*), in connection with plaints.

In sub-clause (*4*) we have limited the duty of entry in the register to the Court which passed the decree, in order to give effect to existing practice as dictated by necessity.

Clause 246.—The insertion of the words "in separate suits" is intended to show that, for the purposes of execution, a counter-claim is not a separate action [*per* Esher, M. R., *Stumore* v. *Campbell & Co.* (1892), 1 Q. B. 317].

In *illustration* (*d*) we have omitted the reference to "transfer" which is not of the essence of the example.

Clause 248.—This provision has been considerably lightened by the omission of the passages relating to the transfer of decrees. It has been represented to us that, even in the cases referred to in sub-clauses (*1*) and (*2*), issue of the notice may involve an unreasonable delay or defeat the ends of justice. We have accordingly proposed to give the Courts a discretion in the matter.

Clauses 248A to 248C.—The altered form of clause 248A has enabled us considerably to abridge the first five of the clauses relating to the procedure at the hearing of applications for execution and at the same time to state, it is believed, with even more clearness, the duty of the Court, irrespective of the decree-holder's actual appearance, to proceed with the application if he has placed it in a position to take the necessary action.

Clause 248F.—From sub-clause (*1*) we have omitted the period of days within which an application may be presented. It appears to us that such a provision more appropriately finds a place in the Indian Limitation Act, 1877, and we have accordingly suggested an amendment of articles 163 and 164 of the second schedule to that enactment. This amendment, which will cover also an analogous amendment in clause 248J, it is proposed to effect by the necessary entry in the fourth schedule of the Bill.

We think that sub-clause (*2*), as originally drafted, involves too severe a penalty for an error of procedure. It has accordingly been limited to the disability to preclusion from assistance of the same nature as that sought from the Court in the application dismissed for default.

Clause 248G.—The proposed extension of clause 13 to proceedings other than suits enables us to dispense with this provision.

Clauses 248H and 248I.—The Bill, as originally drafted, contemplated absolute continuity of execution-proceedings, subject only to stay for specific reasons. We do not see our way to keeping alive processes in execution when the proceedings themselves have been stayed. In these circumstances, we have provided in clause 248H that stay terminates all processes, with the result, of course, that clause 248I must be omitted.

Clause 248J.—We have made it clear that this clause applies only to cases in which the judgment-debtor has made default after notice.

Clause 248K.—We have omitted this provision because we think that the Court should in this respect also be trusted to exercise the discretion conferred by clause 220.

Clause 248M.—We have omitted this clause in view of the objections of the Courts to the labour involved in the preparation of the proposed memorandum.

Clause 250.—For the word "warrant" the word "process" has been substituted as more exhaustive and familiar.

Sub-clause (*3*) has been re-stated in a form intended to meet the facts underlying a Calcutta ruling [*Anand Lall Bera* v. *The Empress* (1883), I. L. R. 10 Cal. 18].

Clause 252.—In sub-clause (*3*) we have dealt with the execution against legal representatives of decrees other than decrees for the payment of money. There is no provision in the existing Code for such cases, although suits against legal representatives to compel the delivery of property or the performance of any other specific act are by no means uncommon.

Clause 253.—The provisions relating to the enforcement, by summary process in execution, of security given for the performance of a decree on the payment of money, should, in our opinion, apply to security given for restitution of property or the fulfilment of conditions.

Clause 254.—We think it equitable that, if the period of detention in the civil prison actually undergone is not to preclude execution of a decree by further detention, it should be deducted from the period of further detention permissible under clause 342.

Clause 260.—Sub-clause (*4*) and the *illustration* have been added to remedy a defect disclosed in practice [*Bhoobun Mohun Mundul* v. *Nobin Chunder Bullub* (1872), 18 W. R. 282; *Protap Chunder Doss* v. *Peary Chowdhrain* (1881), I. L. R. 8 Cal. 174].

Clause 260A.—In sub-clause (*2*), paragraph (*b*), we have omitted the passages reproducing the provisions of the Matrimonial Causes Act, 1884 (47 & 48 Vict., c. 68), section 3, in so far as they authorize the Court to require a female judgment-debtor to provide for the support of her husband decree-holder. It has been represented that

such a provision is not required in this country and might, to some extent, involve an inconsistency with the principles of Hindu law.

Clause 261.—Sub-clause (*5*) has been extended to cover optional, as well as compulsory, registration; and we propose that an order for the payment of expenses of registration of either kind may be summarily enforced in the execution department.

Clause 263.—In sub-clause (*4*) we have specified the point from which the thirty days' period of limitation is to commence and which the Bill, as originally drafted, possibly left a little uncertain.

In sub-clause (*5*) we have added the words "by order" to show more clearly that enforcement is regulated by sub-clause (*8*).

In sub-clause (*6*) we have sought to meet a difficulty of practice by allowing the Court to deduct the expenses of sale.

Clause 265.—The slight amendments introduced into this section are required for uniformity with clause 215B as re-cast.

Clause 336.—It has been strongly urged in several quarters, more particularly by the Government of the Punjab, that the prohibition against the forcing of an outer door is an "inconvenient superstition". A corresponding alteration has been made in clause 271. We are of opinion that a warrant of arrest issued by a Court of Justice should receive implicit obedience; and the distinction between warrants, according as they have been issued by Criminal or Civil Courts, seems to be an importation even now foreign to the ideas of the people of this country. We think it both fair and necessary that an order of authority, if resisted, should be carried out by force, and, where the house-holder objects to having his door broken, he has only to hand over the judgment-debtor or to allow the arresting officer to satisfy himself that the judgment-debtor is not on the premises.

In sub-clause (*4*) we have added a passage to supersede rulings to the effect that the security is released by the mere filing of the petition of insolvency [*Koylash Chandra Shaha* v. *Christophoridi* (1887), I. L. R. 15 Cal. 171; *Ramzan* v. *Gerard* (1890), I. L. R. 13 All. 100; *Banna Mal* v. *Jamna Das* (1893), I. L. R. 15 All. 183; *Dwarkadas Parshotam Das* v. *Isabhai Daudkhan* (1894), I. L. R. 19 Bom. 210] with which the judgment-debtor may never have intended to proceed.

We have omitted sub-clause (*5*) of the original Bill in view of the altered terms of clause 253.

Clause 653.—This clause appears to us to be misplaced in the Miscellaneous Chapter. We have transferred hither sub-clauses (*1*) and (*2*), while sub-clauses (*3*) and (*4*) have been inserted after clause 342. A consequential addition has been made to clause 481.

Clause 337A.—We propose that the remedy here provided should not be available to a judgment-debtor who has already been released under clause 336, sub-clause (*4*), and fails to carry out the conditions of such release.

Clause 266.—In sub-clause (*1*) we have amplified the language because, under the procedure now proposed, attachment by way of garnishment or charging will not terminate in sale.

In paragraph (*c*) of the proviso we have somewhat enlarged the wording, though not the principle, of the exemption relating to houses and buildings of agriculturists. The exemption is of little efficacy if the site and the land immediately appurtenant and necessary for enjoyment are liable at any moment to attachment and sale. We have omitted the words "as such" and have inserted the words "as an agriculturist" after the word "representative" to give more precise effect to the underlying decision [*Radhakisan Hakumji* v. *Balvant Ramji* (1883), I. L. R. 7 Bom. 530].

In paragraph (*g*) we have amalgamated paragraphs (*g*) and (*h*) of the original Bill and, to meet a case of extreme hardship reported to us, have excepted decrees for alimony from the exemption to the extent of one moiety of each of the exempted particulars. We conceive that the sums referred to are exempted to enable the judgment-debtor to maintain himself and his family in a position appropriate to his rank. We do not think that the purposes of such exemption are carried into effect where an officer or a pensioner refuses to make any attempt to satisfy a decree obtained by his wife for alimony.

In paragraph (*m*) we have made an addition to cover the case of local enactments passed by the Governor General in Council.

Paragraph (*a*) of sub-clause (*2*) has been slightly amended for closer conformity with paragraph (*c*) of the proviso to sub-clause (*1*) as re-cast.

Clause 267.—In sub-clause (*1*) we have inserted the words "alleged to be" before the word "liable" in order to base the Court's authority to act upon the application and not, as at present, upon proof of the liability of the property.

In sub-clause (*2*) we propose to remove any doubt in regard to the application of the provisions of the Code relating to the levy of costs.

Clause 269A.—We have extended this provision, which originally affected "growing crops" only, to all "agricultural produce" as defined by us in clause 2, paragraph (*a*). We entirely concur in the principle adopted in the Bill that the Court should attach such produce, which will now in all cases be treated as moveable property, by taking it into its possession and custody. At the same time, the procedure relating to the "actual seizure" of moveables cannot be applied, in its entirety, to a growing crop and, having regard to the special provisions suggested by us in clause 295B with respect to the sale

of "agricultural produce," we see considerable objection to allowing such produce to be ordinarily removed on attachment. In these circumstances, we think that, to give proper effect to clause 295B, attachment should be effected by affixing a notice *in situ* on the field or threshing-floor and also, by way of greater caution, on the judgment-debtor's ordinary place of residence. To meet special cases of persons not residing in the actual neighbourhood, we would allow, under the special orders of the Court, affixure as permitted by clause 80, on the house in which the judgment-debtor carries on business or personally works for gain or in which he is known to have last resided or personally worked for gain. We have provided that the costs of the attachment shall be added to the decree.

Clause 269AA.—Somewhat conflicting opinions have been expressed on the extremely difficult question of the authority best qualified to carry into effect the necessary arrangements for agricultural produce under attachment. On the whole, we have arrived at the conclusion that, unless the presiding officer of the Court is specially authorized by the Local Government to deal with such produce, a precept should always be issued to the Collector. Revenue-officers, as a rule, are in a better position than a Civil Court to deal with these matters. It will be observed that we have given power to "any subordinate" and not merely to "any gazetted subordinate," because the Tahsildar, upon whom this duty will ordinarily devolve, is not usually a gazetted officer.

Clause 269B.—The original proposal to authorize the Court only to declare a fixed proportion of any growing crop to be exempted has been universally condemned as impracticable. It seems to us to be clear that the amount to be exempted, not merely of growing crops but of all "agricultural produce", must depend upon the circumstances of each particular case; and we think that the proper person for deciding this matter must necessarily be the authority entrusted under clause 269AA with the arrangements relative to attachment. As a matter of working practice, the original proposal to treat a proportion of growing crops as free from liability to attachment and sale cannot, it seems, be conveniently carried into effect. We propose, therefore, that the growing crop, as such, should be attached, but that the proportion to be exempted shall, when ascertained, be released from attachment. The provisions of clause 269A, sub-clause (*2*), authorizing the judgment-debtor to attend to his crop while under attachment are sufficient, we think, to prevent any hardship arising from this procedure. We have omitted the proviso, originally appended to clause 269B by way of greater caution, because we think that the special and local enactments, by which the first charges in favour of rent or revenue are created, are sufficiently safeguarded by clause 4 as amended by us.

Clause 268A.—It frequently occurs that the property to be attached consists of a share or interest in moveable property belonging to the judgment-debtor and others in co-ownership. Such a share or interest is obviously incapable of actual seizure. We are not prepared to accept a proposal that in such cases the entire property should be attached and sold and the co-owners other than the judgment-debtor relegated to their rights either of redemption or of participation in the sale-proceeds. No doubt the extreme frequency of co-ownership presents a formidable obstacle to the rapid and effectual execution of decrees; but, at the same time, we do not feel justified in furthering the interest of the decree-holder at the expense of proprietary rights belonging to third parties. In these circumstances, we see no other solution open to us than to provide for the issue to the judgment-debtor of a notice prohibiting him from transferring or charging the share or interest.

Clause 268F.—The amendment introduced into this clause is merely for the sake of a greater precision of language and procedure.

Clause 268G.—In sub-clause (*1*) we have added words to show that the operation of this section is not ousted by the mere circumstance that the decree is passed, not against the firm, but against the partners constituting it, where those partners have been sued as such. In one respect we have departed from the English practice embodied in this clause; for we have given in sub-clause (*3*) the co-partners a right to apply for the sale to them of any such share of a partner as has been charged under sub-clause (*2*).

Clause 272.—We have made it clear that the determination of questions of title or priority is to be in the manner and the extent provided in clause 278.

Clause 273.—We have re-stated this provision in somewhat clearer and more exhaustive language.

In sub-clause (*1*) we have collected together all classes of decrees with respect to which the direct application of proceeds realized in execution to the satisfaction of the claims of the attaching decree-holder presents no real difficulty. It will be observed that, in this category, we have included decrees for sale in enforcement of a charge and for the delivery of specific property. Where, however, such property is not in the form of money, it is essential to provide for a power of sale such as is suggested in sub-clause (*3*).

In sub-clause (*4*) we have, as in the existing section, dealt with all other decrees. We have not considered it necessary to make a special exception in the case of purely personal decrees such as those for the restitution of conjugal rights. Our reason is that, in our opinion, such decrees are not attachable property within the purview of the defining clause 266. The Code, as we interpret it, refers to the attachment of decrees involving rights to tangible property. In such cases, however, the remedy afforded by the Code and that suggested in the Bill are not always likely to be effective. The attachment, for example, of a decree for specific performance, directing the execution of a sale-deed in favour of the holder of the decree so attached, obviously cannot entitle the attaching decree-holder to obtain execution of a sale-deed in his own favour. Sub-clause

(4) of the Bill, now re-numbered (5), gave the attaching decree-holder a right to execute the attached decree by having the sale-deed executed; and, having thus caused the property affected by the sale-deed to be transferred to the holder of the attached decree, the attaching decree-holder would, it was contemplated, proceed to attach the property and bring it to sale. It has been pointed out that, in these circumstances, the holder of the attached decree might dispose of the property before it could be attached; and we have accordingly provided in sub-clause (4) that he shall be prohibited from transferring or charging in any way such property.

In sub-clause (6) we have substantially restored the existing language of the Code because we think that the duty of giving notice to the judgment-debtor, bound by the attached decree, should be imposed upon the attaching decree-holder.

We have re-stated, in simpler language, the prohibition contained in sub-clause (7), now re-numbered (8), against the existing practice of selling attached decrees which we regard as most undesirable.

Clause 274.—We concur in the view expressed in the Statement of Objects and Reasons that orders for the attachment of immoveable property should remain in force for a period specified therein. Such a period should, of course, be capable of being, from time to time, extended; but, where an order for the sale of the property has been made, the decree-holder has done what may fairly be expected of him; and we think that the attachment should continue, without necessity for applications from the decree-holder, until the sale becomes absolute or is set aside, otherwise, of course, than under clause 310A. Where, however, a sale is set aside otherwise than under clause 310A, the judgment-debtor, in the absence of special provision, might dispose of the property before the decree-holder could, however great his diligence, obtain a re-attachment. To obviate hardship in such cases, we think that the unexpired portion of the original attachment should revive. Nevertheless, it may happen that the order for sale has been made almost immediately before the attachment would in the ordinary course expire; and, as the decree-holder is not necessarily responsible for this circumstance but might none the less be prevented thereby from obtaining a re-attachment before the property is transferred, we would invest the Court which sets aside the sale with a discretion to fix a further period. The principle which underlies our proposal is that a decree-holder should be bound to prosecute his application for execution with all reasonable diligence; but we do not think that the judgment-debtor should be able to defeat execution by taking advantage of a momentary delay which the decree-holder cannot, by any possibility, prevent.

Clause 275.—In paragraph (b) we have placed satisfaction certified under clause 258 on the same footing as satisfaction made through the Court. We have further sought to render it clear that the removal of an attachment arises by operation of law and does not depend on an order for withdrawal. We do not think that the removal need always be proclaimed with the formalities prescribed by clause 274, though we think that those formalities should be available to the judgment-debtor if he so desires and is willing to pay the expenses.

Clause 285.—We have transferred sub-clause (2) to a more appropriate position under the sub-title *Payment and distribution of assets realized in execution.* An *illustration* has been added to give effect to decisions of the High Courts of Bombay [*Turmuklal Harkisanrai* v. *Kalyandas Khushal* (1894), I. L. R. 19 Bom. 127] and Allahabad [*Ballu Ram* v. *Raghubar Dial* (1893), I. L. R. 16 All. 11].

Clause 268AA.—We have modified the language of sub-clauses (1) and (2) to bring it into closer harmony with the other provisions of this Chapter, more especially those relating to the issue of precepts and application for execution.

The leading decisions explanatory of the nature of an attachable debt have been summarized in paragraphs (a) [*Tapp* v. *Jones* (1875), 10 Q. B. 591, at p. 592; *Webb* v. *Stenton* (1883), 11 Q. B. 518, at p. 527] and (b) [*Chatterton* v. *Watney* (1881), 16 C. D. 378, at p. 383; *In re General Horticultural Company ex parte Whitehouse* (1886), 32 C.D. 512; *Badeley* v. *Consolidated Bank* (1888), 38 C.D. 238; *Davis* v. *Freethy* (1890), 24 Q. B. 519; *Cole v. Eley* (1894), 2 Q. B. 180, at p. 187] of the *explanation.*

The *explanation* respecting mortgages has been amplified to remove misconception and to avoid any confusion between the summary procedure by garnishee order and the provisions of the Transfer of Property Act, 1882 (IV of 1882).

Illustration (a) gives effect to a ruling [*Hall* v. *Pritchett* (1877), 3 Q. B. D. 216] which is apt to be overlooked, and *illustration* (b) follows so much of the *explanation* as relates to mortgages.

Clause 268C.—The language of sub-clause (1) has been slightly altered to reproduce more closely the language of the English order without shifting the burden of proof as was proposed in the original Bill. It is further suggested for the purposes of appeal and otherwise to give a decision under this provision the force of a decree.

Clause 268E.—By virtue of paragraph (k) of the proviso to clause 266, expectancies by survivorship and other merely contingent or possible rights or interests are not capable of attachment. In these circumstances, we have departed from English practice by limiting interests in stock attachable by charging order to vested interests.

With reference to sub-clause (3), we think it right that notice should also be given to the person in whose name the stock is standing.

Clause 268EE.—Though garnishment furnishes the most convenient method of attaching a specific debt, it may not always be either cheap or expeditious in the case of debt

such as claims to agricultural rent or profits, comprising many small items and governed by special laws for their realization. In such cases, the necessity for serving every individual debtor with notice of a separate garnishment order would serve no useful purpose, while it would sensibly increase the cost falling ultimately upon the judgment-debtor. We understand that, in several Provinces, such debts are attached wholesale and a receiver appointed by a practice, which is of very doubtful legality but has grown up, *ex necessitate rei*, on the analogy of the attachment of revenue-paying estates by the Collector. We would legalize this procedure and give the Court a discretion to resort to it; but we would not limit it strictly to rent or profits, inasmuch as it may be expedient to apply it, for example, to the outstandings of an insolvent business.

Clause 276.—We have transferred this provision to a separate sub-title after clause 268E and have slightly altered the wording to render it clear that the restraint upon alienation applies also to attachment by way of garnishment and charging orders.

Clauses 278 and 283.—We have materially simplified the procedure relating to the investigation of claims and objections which, in the existing Code, appears to us to be open to serious objection. Sections 278 to 282 allow, but do not compel, the raising of claims and objections which may involve questions of title. On the other hand, they strictly limit the adjudication to summary orders for possession, which section 283 allows the unsuccessful party to impugn by a suit, subject to a reduction of the ordinary period of limitation to one year. An optional and dual system of this description is, of course, most ineffectual; and clause 283 of the Bill sought to remedy one of its defects by making recourse to this procedure compulsory. This proposal, on full consideration, we find ourselves unable to support. A judicial auction or a resistance to execution involves an act which in itself is, at any rate, a considerable guarantee for notice and justifies, in our opinion, the compulsory provisions of clause 312, sub-clause (*3*), and clause 335A. In the case of a mere attachment, however, we do not feel confident that the report of a process-server is a sufficient safeguard when it is a question of negativing remedies, at present available for the enforcement of substantive rights, as a penalty for what is, at worst, a default of procedure. Our suggestion for the removal of some of the difficulties is to leave it optional, as at present, to have recourse to a claim or objection under clause 278 but, on the other hand, to give a claimant or objector, if he takes the trouble to come forward, a full enquiry and a definitive decree. We have accordingly struck out clause 283 altogether but have regularized proceedings under clause 278 as suits.

We have further considered the question whether the benefit of the procedure afforded by clause 278 should be limited to claims and objections arising in respect of an attachment or should extend to those relating to property which is declared by the decree itself to be liable to sale in satisfaction of a mortgage and which, therefore, does not require to be attached by way of execution [*Dayachand Nemchand* v. *Hemchand Dharamchand* (1880), I. L. R. 4 Bom. 515, at p. 520; *Venkatanarsammah* v. *Ramiah* (1879), I. L. R. 2 Mad. 108, at p. 112]. The Bill, as originally drafted, referred to "property attached in execution of a decree, including a decree for the enforcement of a mortgage"; but the language employed was, in our opinion, inappropriate, because it implied a reversion to the former process of attachment in execution of mortgage-decrees which the Legislature has regarded with disfavour ever since the enactment of the Transfer of Property Act, 1882, section 99, and to which we are not disposed to lend any encouragement. On the other hand, while we have no desire to question the legal accuracy of the decisions [*Deefholts* v. *Peters* (1887), I. L. R. 14 Cal. 631; *Himatram* v. *Khushal Jethiram Gujar* (1893), I. L. R. 18 Bom. 98, at p. 100; compare also *Wamanrao* v. *Kustomji* (1896), I. L. R. 21 Bom. 701; *Sanwal Das* v. *Bismillah Begam* (1897), I. L. R. 19 All. 480, at pp. 481-2; *Joy Prokash Singh* v. *Abhoy Kumar Chund* (1897), 1 Cal. W. N. 701], holding section 278 to be inapplicable to claims and objections relating to mortgage-decrees, we are satisfied by the facts underlying those cases that the present law may and does involve serious hardship to all the parties concerned. However willing the claimant or objector may be to come forward and have the matter determined without delay, the Courts, holding themselves bound to confine themselves to the solemn contract between the mortgagor and mortgagee, sell off the property with the cloud on the title and the prospect of years of litigation. The result is that the purchaser of property ordered to be sold in enforcement of a mortgage obtains the least security from judicial process, whereas the whole intention of the Courts responsible for the rulings was to safeguard his interests. The effect is naturally to discourage the willingness to bid and thus to perpetuate the evil of inadequate prices which is generally admitted to be a pressing hardship and which it is one of the objects of the Bill to minimize. We think that, in allowing claimants and objectors in the case of mortgage-decrees to avail themselves of section 278, we are following out the line of the principle enunciated by Their Lordships of the Privy Council [*Prosunno Kumar Sanyal* v. *Kali Das Sanyal* (1892), I. L. R. 19 Cal. 683] that objections relating to execution-sales should be disposed of as cheaply and speedily as possible.

At the same time, we have suggested that a practical limit should be set to the degree of detail with which the Court executing the decree should pursue investigations under clause 278 as remodelled. The intending purchaser is entitled to know the factum of an existing incumbrance or right of redemption; but, where the precise amount of mortgage-money is disputed, he is willing, as a rule, to bid on the assumption of the substantial correctness of the mortgagee's demand without waiting for every item of the account to be settled. We have accordingly added a proviso, in this sense, to sub-clause (*1*).

We have expunged sub-clause (*3*) of clause 278 in the original Bill which attempted, on the basis of case-law, to describe with greater accuracy the nature of the interest referred to in the existing section 279. We do not consider it desirable to give legislative recognition to the principle resulting from certain cases [*In the matter of Bhoiharinee Dabee* v. *Maharaja Nil Monee Sing Deo Bahadoor* (1875), 24 W. R. 422; *Shivapa* v. *Dod Nagaya* (1886), I. L. R. 11 Bom. 114, per Sargent, C. J., at page 119] that the judgment-debtor, who has been treated in Madras as bound by the proceedings [*Netietom Perengaryprom* v *Tayanbarry Parameshwaren Nambudry* (1869), 4 Mad. H. Ct. 472; *Guruva* v. *Subbarayudu* (1890), I. L. R. 13 Mad. 366], should have the power to adduce rebutting evidence. Now that the procedure is assimilated to that followed in suits relating to title, the difficulties experienced with respect to the parties to a summary investigation into possession should not arise.

Clause 287.—Sub-clause (*2*) has been slightly altered to give effect to a practice, which is stated to be followed with great advantage in Calcutta, of drawing up proclamations after notice to the parties, who are thus afforded an opportunity of settling the contents correctly and, in a great measure, are restrained from subsequently raising obstructive and dilatory objections. The penalty proposed by us for want of diligence in this matter is contained in clause 331, sub-clause (*4*).

With reference to sub-clause (*5*) as originally drafted, we are of opinion that neither the decree-holder nor the judgment-debtor should be under any obligation to furnish the Court with any estimate of the value of the property to be sold, and we have accordingly declared that no valuation of the property shall be entered in the proclamation.

Sub-clause (*6*) of the original Bill was inserted to give effect to rulings [*Laek Ram* v *Mohesh Doss* (1869), 12 W. R. 488; *Saadatmand Khan* v. *Phul Kuar* (1898), I. L. R. 20 All. 412] declaring that the object of issuing a proclamation is to give notice to the intending purchasers and not to the judgment-debtor. We have decided to depart from this principle and have, as we propose to require the proclamation to be settled after notice to the parties, cancelled sub-clause (*6*), which provided for information likely to be useful to the public in bidding.

Clause 289.—We have consolidated and abridged sub-clause (*1*) but inserted the words "as nearly as may be", because the provision applies generally to sales of both kinds of property and, in the case of moveables, the provisions of clause 274, relating to immoveables, cannot be applied in their entirety.

It will be noticed that clause 289, sub-clause (*1*), of the Bill as originally drafted reproduces from the present section the word "then" which does not figure in section 274. This sequence of acts is important with reference to the starting-point of the period of limitation prescribed by clause 290. We have accordingly provided for it by an addition of "then" in clause 274, sub-clause (*3*).

In sub-clause (*2*) we propose to give the Courts an option not to publish in the Gazette, which is not commonly read by the classes most affected.

Clause 290.—By sub-clause (*2*) it is sought to remove the long-standing difference of opinion on the question whether contravention of the provisions of section 290 is an illegality or a mere irregularity. On the whole, we are of opinion that, where the sale of the property should never have been held at all by reason of the mandatory provisions of sub-clause (*1*), it is no answer either to the decree-holder or to the judgment-debtor to say that a fair sale-price has been realized. The facts of a reported decision [*Teyen* v. *Ram Lal* (1890), I. L. R. 12 All. 115] disclose that a sale without observance of the provisions for public notice may result in the most serious hardship. In these circumstances, we would provide that, upon the application of the decree-holder or of the judgment-debtor, such a sale shall be set aside. By an addition to the Fourth Schedule, we would enact a period of thirty days' limitation from the date on which the period referred to in sub-section (*1*) has expired.

Clause 291.—The second proviso to sub-clause (*1*) is intended to meet the facts underlying a Calcutta decision [*Lalmohun Chowdhuri* v. *Nunu Mohamed Talukdar* (1889), I. L. R. 17 Cal. 152].

Clause 291A.—Clauses 287 to 291 do not appear to us to apply to cases in which, as in the case of certain kinds of immoveable property, the decree is transferred, or, as is proposed with respect to agricultural produce, a precept is issued, to the Collector.

Clause 293.—The proposed alteration follows the modified procedure suggested by us in regard to the attachment of agricultural produce. Similar alterations have been introduced into clause 294.

Clause 293A.—The original clause was intended to prevent the evasion of the terms of section 185, Indian Penal Code, by the device of bidding in the capacity of an agent of a sham purchaser. We are not satisfied that the abuse referred to is sufficiently common to warrant legislation, and we doubt whether the subject lends itself to legislation in a form likely to result in the conviction of the offenders. On the contrary, we apprehend that, in view of the difficulty of proving intention, prosecutions are not unlikely to prove abortive. In any case, we think that, if such acts are to be penalized at all, the proper place for the provision would be after section 185 in the Indian Penal Code rather than in the Code of Civil Procedure. In these circumstances, we have proposed the omission of the clause.

Clause 294.—This provision, as it stood in the original Bill, was intended to meet the evil of inadequate prices arising from the reluctance of the public to bid against a mortgagee decree-holder. Sub-clause (2), therefore, proposed that, where the decree-holder was allowed the concession of bidding at all, the claim under the decree should be treated as the upset price. We think that such a restriction would be unduly severe where the decretal amount largely exceeds the value of the property. We propose to deal with this important question on a perfectly different principle. Our suggestion is, in clause 294, to remove altogether the restrictions imposed upon bidding by the decree-holder, but to make it his interest to have the property sold at a fair value by giving, in clauses 310A and 311, considerably greater facilities for redemption of the property and cancellation of the sale where the price realized is grossly inadequate.

Clause 295A. —This provision reproduces in more general language the substance of clause 108, sub-clause (*3*), of the original Bill.

Clauses 295B and 295BB.—In these provisions we have recast and re-arranged clause 295B of the original Bill to follow the amendments introduced into clauses 269A to 269B.

With reference to sub-clause (*1*) of clause 295B, we think that agricultural produce should, on the analogy of the Bengal Tenancy Act, 1885, section 129, ordinarily be sold at the place where they are attached, unless a better price is likely to be realized by sale at the nearest place of public resort.

In sub-clause (*2*) we propose to allow, on the analogy of section 131 of the same enactment, a discretion to postpone the sale of agricultural produce where such a course is necessary or desirable to prevent the property from being purchased at an inadequate figure.

Sub-clause (*3*) is based on the principle that the authority entrusted under clause 269AA with the duty of making arrangements for the custody of agricultural produce under attachment is likely to sell such crops to the best advantage of all parties.

Sub-clause (*4*), which regulates the transmission of net proceeds realized under the precept, is perhaps not strictly required; but, as the procedure here proposed is very special in its character, we think it desirable to state it, for the information of revenue-officers, in as complete and connected a form as possible.

Clause 297.—We have omitted sub-clause (*4*) because we do not feel justified in penalizing a third party for the indebtedness of a judgment-debtor who happens to be a co-owner in joint property.

Clause 298.—Our redraft proposes to settle a point left open by Their Lordships of the Privy Council [*Macnaghten* v. *Mahabir Pershad Singh* (1882), I. L. R. 9 Cal. 656, at p. 660] in regard to section 311 and to supersede a decision of the High Court at Allahabad [*Mahadeo Dubey* v. *Bhola Nath Dichit* (1882), I. L. R. 5 All. 86].

Clause 305.—Where a decree-holder is entitled to a set-off under clause 294, sub-clause (*3*), he does not in practice pay in the monies referred to in clause 305, sub-clause (2), first proviso, and should not be required to pay them in under the terms of the Code. A similar saving has been introduced into clause 306, sub-clause (*2*), and clause 307, sub-clause (*1*), proviso.

Clause 307.—We propose to supersede a decision [*Motiram* v. *Bhivraj* (1895), I. L. R. 20 Bom. 745] drawing a distinction, which the majority of litigants are unable to understand, between days on which the Court and those on which the Court's office, respectively, is closed or open. In order to prevent further misconception, we propose to recognize, for the purpose of computing the period allowed for payment, no office day on which the Court is not open.

From sub-clause (*1*) we have omitted the provisions relative to the occurrence of a Sunday, because the matter is sufficiently covered by the General Clauses Act, 1897, section 10.

Clause 310A.—The alteration of language, which we have proposed in sub-clause (*1*), paragraphs (*a*) and (*b*), is necessary to provide for the case of sales in the enforcement of mortgage-decrees without attachment which the Bill has expressly included.

In sub-head (*ii*) we have suggested, in the interests of the judgment-debtor, a relaxation of the present law which has been urged more especially in consequence of inquiries into agrarian indebtedness in the Province of Bombay. At present, advantage cannot be taken of the power of redemption given by the section unless the entire amount due under the decree is deposited. This extremely stringent requirement appears to us to be founded on an incorrect principle. The sale transaction and its rescission are matters between the judgment-debtor on the one part and the purchaser on the other; and the present Code treats the purchaser as sufficiently compensated for his trouble and disappointment by a payment of five per centum on the price offered by him. The decree-holder, however, is interested in the matter to this extent only that the sale-price realized, whatever it be, is applied to the satisfaction of his claim; and we do not think, therefore, that, when the sale is set aside, he is entitled to anything in excess of what he would receive if the sale had been confirmed. On the contrary, as we have mentioned under clause 294, we think it highly important that he should have every interest in seeing that an adequate sale-price is realized. In these circumstances, we

propose to limit his claim to a sum equal to the purchase-money. On the other hand, the present law seems plainly defective in calculating the sum payable to the decree-holder upon the amount specified in the proclamation without taking into consideration the costs of the attachment and sale, to a refund of which the decree-holder seems to us to be plainly entitled.

In view of these amendments we propose to omit the first proviso as contained in the original Bill. The second proviso, which we would retain, seems to us somewhat ambiguous and even inaccurate; and we have accordingly qualified it by an exception to meet cases in which the application under clause 311 is withdrawn.

Sub-clause (*3*) of the original Bill was intended to restrict a practice [compare, *Jirah Lall* v. *Radha Pershad Singh* (1891), I. L. R. 18 Cal. 255; *Makbool Ahmed Chowdhry* v. *Bazle Sabhan Chowdhry* (1898), I. L. R. 25 Cal. 609] to the effect that, where an officer of the Court has miscalculated the amount payable, a judgment-debtor is allowed, as a matter of right, to have the sale cancelled in spite of a deficiency in the deposit. It was proposed to incorporate a decision [*Chundi Charan Mandal* v. *Banke Behary Lal Mandal* (1899), I. L. R. 26 Cal. 449], limiting the benefit of this provision to a *bonâ fide* mistake arising from a miscalculation by an officer bound to inform the judgment-debtor of the correct amount to be deposited. The matter turns, in a measure, upon the particular rules of Court prescribed in the Lower Provinces of Bengal; and, in these circumstances, we think provision for it to be out of place in a Code of general application.

We have added sub-clause (*3*) to give effect to two rulings of the High Court at Allahabad [*Karamat Khan* v. *Mir Ali Ahmed*, All. W. N., 1891, p. 121; *Ali Gauhar Khan* v. *Bansidhar* (1893), I. L. R. 15 All. 407].

The relaxation of law which we have suggested in sub-clause (*1*), paragraph (*b*), would serve little purpose if the property, as soon as it is redeemed, is liable to be re-attached. The logical outcome of that suggestion is that, so long as an order setting aside a sale under sub-clause (*1*) is in full force and effect, the decree-holder should be in the same position as if the property had been sold to him for the sum received by him under sub-head (*ii*) of that sub-clause.

With reference to this clause as a whole, we have altered the second and third entries in column 4 of the Fourth Schedule relating to the Transfer of Property Act, 1882, with the object of obviating possible misconception with respect to the application of clause 291 as well as of clause 310A [*Raja Ram Singhji* v. *Chunni Lal* (1897), I. L. R. 19 All. 205; *Harjas Rai* v. *Rameshar* (1898), I. L. R. 20 All. 354].

Clause 311.—We have been pressed to supersede, in the sense of decisions from Madras [*Venkatasubbaraya Chetti* v. *Zamindar of Karvetinagar* (1896), I. L. R. 20 Mad. 159] and Calcutta [*Sheorutton Singh* v. *Net Loll Sahu* (1902), I. L. R. 30 Cal. 1, at p. 9], a series of rulings [*Satish Chunder Rai Chowdhuri* v. *Thomas* (1885), I. L. R. 11 Cal. 658; *Tasadduk Rasul Khan* v. *Ahmad Husain* (1893), I. L. R. 21 Cal. 66; *Jagan Nath* v. *Makund Prasad* (1895), I. L. R. 18 All. 37; *Shirin Begam* v. *Agha Ali Khan* (1895), I. L. R. 18 All. 141; *Hazi Mahomed* v. *Bindu Basini Debi* (1897), 2 Cal. W. N. cclxxix] which turn upon the construction of the specific language of the Code and declare that to succeed under this section the applicant must prove a grossly inadequate sale-price resulting from a material irregularity, and that the co-existence of an irregularity and an inadequacy, however gross, in the sale-price is not sufficient, in the absence of direct evidence, to establish a causal connection. A perusal of the voluminous case-law on this subject satisfies us that the real essence of the matter is the gross inadequacy of the sale-price, and that the material irregularity, to which so much importance has been hitherto assigned, is of moment only in so far as it explains that inadequacy. Without entering, therefore, into the merits of the interpretations so often discussed by the Courts, we would strike at the root of the matter by permitting an application on the simple ground of gross inadequacy of the sale-price; and we have the less hesitation in making this suggestion because we have proposed, in clause 294, the removal of all existing restrictions upon bidding by the decree-holder. The power conferred is in the discretion of the Court, which must be trusted to exercise it in proper cases.

In view of the great extension given by us to the right conferred by this section, we do not think that, as was proposed by the original Bill, the remedy should be open to any person entitled to sue to set aside the sale. We have accordingly limited the scope of the clause to the parties to the decree and persons entitled to share in rateable distribution of assets. We have struck out the reference to thirty days as sufficiently covered by article 166 of the second schedule to the Indian Limitation Act, 1877. On the analogy of clause 298, as proposed to be amended, we have suggested that the sale may be impugned on the ground of a material irregularity, not merely in publishing or conducting such sale, but also in attaching the property. A consequential amendment of article 166 of the Second Schedule to the Indian Limitation Act, 1877, has been proposed in the fourth schedule.

From the proviso to sub-clause (*1*) we have omitted the expression "by direct evidence," because we think it liable to be misunderstood, although it has been employed by Their Lordships of the Privy Council in the course of a leading decision. It is probable, however, that Their Lordships did not intend to formulate a general rule

[*Lala Mobaruk Lal* v. *The Secretary of State for India in Council* (1885), I. L. R. 11 Cal. 200] and a reasonable inference from facts is often the only available method of proof [I. L. R. 30 Cal. 1, at p. 9].

We think that a person making an application under this clause should not be able concurrently to make or prosecute an application under clause 244 to set aside a sale impugned by him.

We have omitted the *explanation* as out of place in this clause.

Clause 313.—The reference to sixty days in sub-clause (*1*) has been omitted as sufficiently covered by article 172 of the Second Schedule to the Indian Limitation Act, 1877. Though we approve of the principle embodied in *explanation I* of the Bill, we have omitted this provision because there seems no necessity for giving legislative recognition, at any rate in this clause, to the underlying decision [*Durga Sundari Devi* v. *Govinda Chandra Addy* (1883), I. L. R. 10 Cal. 368]. A slight abridgment of the language of the clause has necessitated an addition to the Fourth Schedule verbally amending article 172 of the Second Schedule to the Indian Limitation Act, 1877.

Clause 312.—The reference to the period of sixty days has been omitted in view of the amendments proposed in clause 310A. A consequential alteration of the language of sub-clause (*2*) has thereby been necessitated.

Sub-clause (*3*) has been recast in a form which we consider more exhaustive in the way of excluding concurrent remedies.

Clause 315.—Sub-clause (*1*), paragraph (*b*), has been slightly amended to meet the facts underlying a Madras decision [*Sivarama* v. *Rama* (1884), I. L. R. 8 Mad. 99]. A consequential amendment has been made in the language of the proviso to sub-clause (*3*).

A slight addition has been made to paragraph (*b*) of sub-clause (*2*) to give more exact effect to the case-law underlying it [*Vithoba* v. *Esat* (1893), I. L. R. 18 Bom. 594].

Clause 316.—We consider it desirable to direct attention to the circumstance, which is often overlooked, that the stamp-duty is payable not by the deposit of the sum required to purchase stamps but by the stamps themselves.

Clause 317.—A reference to the successor-in-title has been inserted to supersede certain rulings [*Theyyavelan* v. *Kochan* (1897), I. L. R. 21 Mad. 7; *Dukhada Sundari Dasi* v. *Srimonto Joardar* (1899), I. L. R 26 Cal. 950].

Clause 318.—In sub-clause (*1*) of the original Bill, for the word "purchaser" we have substituted the words "holder of the certificate" in view of the amendments proposed in clause 316, sub-clause (*1*).

We have omitted sub-clause (*2*) because the expansion of clause 244 to cover a purchaser closes the long-standing controversy on the question whether a dispute under this provision, where the purchaser is the decree-holder, does or does not fall within the purview of section 244 as the subject of a decree.

Clause 327A.—We have transferred hither the provisions of clause 546, sub-clause (*3*), as originally drafted, for the sake of more logical sequence.

Clause 321.—We have amalgamated clauses 321 and 322 of the original Bill as relating to the same subject-matter.

Clause 295.—In order to avoid misconception, we have made it clear that the application referred to in sub-clause (*1*) is in the form prescribed by clause 235. We have extended this sub-clause to cover the case of legal representatives with a view to meeting the facts underlying certain decisions [*Grant* v. *Subramaniam* (1898), I. L. R. 22 Mad. 241; *Govind Abaji Jakhadi* v. *Mohoniraj Vinayak Jakhadi* (1901), I. L. R. 25 Bom. 494].

We have made a slight addition to sub-clause (*3*), the language of which has been adapted to the precept system, with a view to rendering it clear that, though issue of a precept is not a condition precedent to application for rateable distribution, a precept must be obtained before the applicant can participate in the assets.

We have made an addition to sub-clause (*4*) because, in the cases governed by clause 274, an attachment will no longer remain in force until withdrawn by order but is limited to a specific period.

We have amplified *explanation I* because we think that assets realized by a sale should not be regarded as available for distribution so long as the sale is liable to be set aside.

We have somewhat recast the wording of *explanation II* in which our proposed paragraph (*c*) is intended to give effect to a Madras decision [*Mallikarjunadu Setti* v. *Lingamurti Pantulu* (1900), I. L. R. 25 Mad. 244, at pp. 286 and 287].

We have added *explanation IV* to obviate arguments to the effect that sums of the nature here referred to are held by the Court solely for payment to a specified decree-holder and not for distribution to others.

Clause 328.—In this clause we have amalgamated clauses 329 and 330 as relating to the same subject-matter.

In sub-clause (*3*) we have sought to render somewhat more specific the nature of the order which the Court is competent to make.

In sub-clause (*4*) we have substituted detention in the civil prison for imprisonment of either description as for a criminal offence. Notwithstanding the terms of the present Code, we are strongly of opinion that, where there is no independent trial before the Magistrate, the Civil Court should not commit to the criminal prison.

Sub-clause (*5*) reproduces, in a somewhat amplified form, the substance of clause 2, sub-clause (*1*), paragraph (*f*), sub-head (*iv*), as proposed in the original Bill [compare, *Fonindro Deb Raikut* v. *Rani Jugodishwari Dabi* (1886), I. L. R. 14 Cal. 234; *Gopala* v. *Fernandes* (1892), I. L. R. 16 Mad. 127].

Clause 331.—We have omitted sub-clause (*3*) of the original Bill as sufficiently covered by the two sub-clauses following thereon.

To sub-clause (*4*), now re-numbered (*3*), we have added a reference to consequential relief because it might be contended that a Court has, in the absence of a prayer for such relief, a discretion to refuse to grant a bare declaration of title.

Clause 332.—In sub-clause (*1*) we have sought to render it clear that a claimant, failing under clause 331, cannot have the objection re-heard under clause 332. In the same sub-clause we have omitted the words "in good faith" as adding nothing substantial to the words "on his own account".

Clause 335.—In sub-clause (*3*) we have added provisions intended to assist the subordinate Courts by reference to the procedure contained in sections which, in this connection, might be overlooked.

Clause 335A.—We have recast the language of this clause for purposes of greater precision. The only point to which we would direct special attention is that, in paragraph (*b*), we have, as in clause 312, sub-clause (*3*), assimilated the provisions with respect to notice to those contained in the definition embodied in the Transfer of Property Act, 1882, section 2.

Clause 343.—We have substituted "process" for "warrant" to follow the amendment proposed in clause 250.

CHAPTER XXI.

OF INSOLVENCY.

Clause 345.—We do not think that, at present, it would be expedient to introduce into British India, in its entirety, the principle of English law that, for the purposes of insolvency, a transaction may be fraudulent solely by reference to its effect irrespective of the intention of the parties thereto. In these circumstances, we have incorporated the original paragraph (*b*) as sub-head (*iv*) of paragraph (*c*) which is limited to cases of intent to defeat or delay creditors.

In paragraph (*b*), as re-numbered, we have, for analogous reasons, felt ourselves unable to retain the expression "fraudulent preference" in the absence of a definition such as that contained in the English Statute. We have accordingly substituted here and elsewhere the expression "undue preference" which is already familiar in Indian enactments. The same expression will be found inserted in clause 360E.

From paragraph (*c*), sub-head (*iii*), we have omitted the words "in his house," because, in our opinion, they would prove to be an inconvenient limitation in view of the circumstances of this country.

Clause 346.—With reference to sub-clause (*1*), we propose to confer upon the Local Government, in the case of agriculturist debtors, a power to fix the amount justifying recourse to the provisions of this Chapter in view of the extremely divergent views expressed with respect to the propriety of the fifty-rupee limit.

In sub-clause (*2*) we have added words to render it clear that the Court to which applications should be made is the Court empowered under clause 344.

Clause 347.—We have altered sub-clause (*1*), paragraph (*a*), to avoid the unnecessary formality of a negative statement where the applicant is not an agriculturist.

Clause 348.—In sub-clause (*1*), paragraph (*b*), we think that the exemption from [illegible]l remedies should be limited to those available for the enforcement of any claim proveable under this Chapter.

With reference to sub-clause (*3*), there have been criticisms to the effect that publication in the local official Gazette is not always likely to be communicated to the classes of creditors concerned in the proceedings. We adhere to the views expressed in the Statement of Objects and Reasons that no system of insolvent relief is likely to succeed unless "gazetting" is declared to be the only notice to creditors required by law and rendered conclusive as against the assertion of claims otherwise than in accordance with this Chapter. At the same time, to meet the suggestions offered, we propose, in sub-clause (*4*), that, in addition to giving this legal notice, the Court shall give the creditors such further notice as it may consider expedient.

In sub-clause (*6*) we have added the words "in the first instance" to render it clear that such expenses are subsequently chargeable against the estate under clause 360GG.

V D

Clause 349.—It has been represented that the penalty originally proposed on the analogy of certain contempts punishable under the Indian Penal Code would, in practice, prove to be inadequate as a deterrent. We have accordingly enhanced the maximum to six months' imprisonment or a fine of one thousand rupees. At the same time, we have inserted the words "on conviction by a Magistrate" to emphasize the principle, which we have adopted in other places also, that the Civil Court is not competent, in the course of its proceedings, to sentence persons for criminal offences. Where it is proposed to confine any person in the criminal prison, we think that, as a general rule, he is entitled to the benefit of an independent trial.

Clause 350.—The original Bill followed the language of the English Statute in authorizing the Court to take the action here prescribed whenever there was probable reason for believing that the debtor intended to behave in the manner contemplated by paragraphs (*a*) and (*b*). It has been represented that the highly penal action prescribed by the clause should not be taken until a definite inquiry has satisfied the Court of its necessity. Here as elsewhere we have sought to render it clear that detention ordered by a Civil Court will be in the civil prison.

Clause 351.—We have omitted the words "on oath" as superfluous in view of the terms of the Indian Oaths Act, 1873 (X of 1873), section 5, clause (*a*).

Clause 352.—In sub-clause (*2*) we would provide a ready means of realizing compensation which appears to us, to some extent, to stand on the same footing as compensation awarded under the Code of Criminal Procedure, 1898, section 553, where the sum is declared to be recoverable as a fine. We propose, however, to enact, in clause 649A, a special procedure for the recovery of fines imposed under this Code to the exclusion of the General Clauses Act, 1897, section 25, which would import the provisions, inappropriate, we think, to civil proceedings, of the Indian Penal Code and the Code of Criminal Procedure, 1898. In these circumstances, we have adapted the language of clause 649A.

It is possible that Courts of Small Causes may be invested with insolvency jurisdiction under this Chapter. We have accordingly recast the provisos, as originally drafted, in conformity with the amendments explained under clause 491.

Clauses 356 and 358.—Objection has been raised to the expressions "proving for" "and ranking for dividend" as unknown to the practitioners of this country. We have accordingly substituted "proving" and "being entitled to participate in a dividend in order of priority".

To prevent any possible misconception, we have added to clause 358 a sub-clause declaring that these provisions do not relieve a receiver of the necessity for obtaining the leave of the Court where such leave is required by the provisions of clause 355.

Clauses 359 and 360.—We are of opinion that a rate of six per centum is more in accordance with the practice of the Courts. A similar alteration has been made in clause 360B, sub-clause (*6*).

Clause 360A.—We have sought to avoid the expressions "admitting", "expunging" and "reducing" a "proof" as unfamiliar to Indian practitioners.

Clause 360B.—As the expression "*pari passu*", which appears in sub-clause (*5*) of the Bill, seems to be unfamiliar to a number of authorities consulted, we have reverted to the expression "rateably according to the amounts of such debts respectively and without any preference," which is slightly adapted from the existing language of section 356, clause (*e*).

Clause 360E.—For the words "making title in good faith," which have been criticized as too technical, we have substituted the more familiar expression "proving a title acquired in good faith."

Clause 360H.—In sub-clause (*4*), paragraph (*d*), we have materially simplified the English practice, which requires a receiver to institute a separate suit and the insolvent to consent to a decree. It appears to us that such proceedings involve an unnecessary and cumbrous formality; and we propose to declare simply that the order itself shall be capable of execution as if it were a decree.

In sub-clause (*5*), paragraph (*l*), we have specified the common cases, mentioned in the existing section, of concealment or removal of property, to prevent argument to the effect that these acts were not intended to be included in the more general language employed in the original draft of the Bill.

Clause 360J.—In sub-clause (*1*) we have thought it safer to declare expressly that a debtor is a person entitled to obtain an order annulling the declaration of an insolvency. We have paraphrased the expression "revert to the debtor for all his estate", because we gather that some of the subordinate Courts may have some difficulty in interpreting it.

Clause 360K.—There has been some discussion on the question whether the criminal or the civil prison is the proper place of reception for a dishonest debtor punished by the Insolvent Court acting at the instance of a creditor. We are of opinion that, where the Insolvent Court acts upon materials collected by it in a civil proceeding, its powers should, as elsewhere, be limited to detention in the civil prison. If the debtor's conduct deserves punishment as a criminal offence, we think that the matter should be referred to the Court of the Magistrate to ensure the safeguard of an independent trial.

Clause 360M.—We have amplified sub-clause (*3*) by a reference to clause 360F, sub-clause (*4*), because we think that a receiver who has been ordered to pay interest out of his own pocket should be allowed to impeach such an order by way of appeal.

PART III.

OF INCIDENTAL PROCEEDINGS.

CHAPTER XXII.

OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

Clause 361.—Illustrations (*a*) and (*b*) have been omitted as founded upon an antiquated decision [*Anderson* v *Martindale* (1801), 1 East 497] which is not very intelligible to practitioners in this country.

Illustration (*d*), which we have re-lettered (*b*), is correct only under the *Dayabhaga* system, and the word "minor" has been omitted as not of the essence of the example.

Clause 363.—We have amalgamated clause 365 with sub-clause (*2*) of this provision, which relates to the same subject. Sub-clause (*3*) has been added to give effect to a decision from Allahabad [*Ghamandi Lal* v. *Amir Begam* (1894), I. L. R. 16 All 211].

Clause 366.—Paragraph (*a*) has been amended so as to give effect to the principle accepted by us that abatement results from the operation of the law and does not depend upon the making of an order. Similar amendments have been imported into clause 2, paragraph (*g*), sub-head (*v*), and clause 368, sub-clause (*3*).

Clause 368A.—We have extended the provisions regarding representation to cover escheat [*In re Barnett's Trusts* (1902), 1 Ch. D. 847].

Clause 368B.—The present Code does not provide for cases in which the plaintiff or defendant sues or is sued in a representative capacity or as a holder of an office and, by reason of his death or otherwise, such representative capacity is filled or such office is held by another before the passing of the decree. In this connection provision has also been made for the inclusion of a Hindu or Muhammadan female where, on the death or re-marriage of such female, the estate will devolve on the legal representative of the last male holder.

Clause 368C.—From this clause, which represents clause 368A of the original Bill, we have omitted the proviso, which adds nothing material to the words "merely because" in the text.

Clause 370.—The words from "unless" to "order", which appeared in clause (*1*) of this provision as originally drafted, have been omitted as inconsistent with the remainder of the clause, which has been recast for closer agreement with Order XVII, rule 1. We have, however, thought it expedient to specify that the security is still to be for costs only.

Clause 372.—Sub-clause (*2*) has been added to meet a possible difficulty of limitation [compare, *In the Matter of the Petition of Durga Prasad* (1899), I. L. R. 22 All. 231].

Clause 372A.—We have omitted this clause and provided for it by an entry in the Fourth Schedule proposing an amendment of the Indian Limitation Act, 1877, section 5.

Clause 372B.—The original Bill proposed to except all execution-proceedings from the operation of this Chapter. It appears to us that only clauses 366, 368, sub-clause (*3*), and 371 should not apply to such proceedings. Otherwise the provisions of the Chapter appear to us to be equally applicable to suits and to proceedings other than suits.

CHAPTER XXIII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

Clause 373.—Sub-clause (*3*) of the original Bill, now re-numbered as sub-clause (*4*), incorporated a rule formulated by Their Lordships of the Privy Council under Act VIII of 1859 [*Watson* v. *The Collector of Rajshahye* (1869), 13 Moo. I A. 160], but equally applicable to subsequent revisions of the Code [*Muddun Ram Doss* v. *Israil Ali Chowdhry* (1874), 21 W. R. 291; *Kudrat* v. *Dinu* (1886), I. L. R. 9 All. 155; *Banwari Das* v. *Muhammad Mashiat* (1887), I. L. R. 9 All. 690; *Sukh Lal* v. *Bhikhi* (1888), I. L. R. 11 All. 187] to the effect that the Courts of this country cannot enter a non-suit after issues have been settled and the plaintiff has failed to adduce the necessary evidence. This rule, however, it was proposed to qualify where the adverse party agrees to the withdrawal of the suit with the object of avoiding a possible appeal. The qualification has been criticized as not likely to prove of practical value; and, in its absence, we prefer to leave to case-law the rule of practice upon which the Courts have hitherto acted.

Clause 375.—We propose to supersede, in the sense of two decisions [*Hara Sundari Debi* v. *Kumar Dukhinessur Malia* (1885), I. L. R. 11 Cal. 250; *Bandhu Bhagat* v. *Shah Muhammad Taqi* (1892), I. L. R. 14 All. 350] the view more recently expressed at Bombay [*Samibai* v. *Premji Pragji* (1895), I. L. R. 20 Bom. 304], Calcutta [*Brojodurlabh Sinha* v. *Ramanath Ghose* (1897), I. L. R. 24 Cal. 908] and Madras [*Sridharan Somayajipad* v. *Purumathan Somayajipad* (1899), I. L. R. 23 Mad. 101] that the Court is at liberty to pass a decree upon a disputed compromise. With reference to a Bombay decision [*Pragdas* v. *Girdhardas* (1901), I. L. R. 26 Bom. 76], we have sought to explain how far the decree is "final and conclusive" as defined in clause 2, paragraph (*j*).

Clause 375A.—The *explanation* has been incorporated in the clause itself for the sake of conciseness.

Clause 375B.—We think it desirable to provide expressly for the application of this Chapter to set-off and counter-claim. A somewhat similar provision will be found in clause 413A.

CHAPTER XXIV.

OF PAYMENT INTO COURT.

Clause 379A.—In view of the addition of this clause, we have proposed verbal additions to Form No. 155 of the Third Schedule.

CHAPTER XXV.

OF REQUIRING SECURITY FOR COSTS.

Clause 381.—The addition to sub-clause (*1*) follows the principle and language of clause 108, sub-clause (*2*).

In sub-clause (*4*) the necessary provision has been made to meet the case of set-off or counter-claim. We are of opinion that payment of costs ordered in a previous suit is not a sufficient protection. We have accordingly provided that the Court may require security for costs likely to be incurred in the subsequent suit by the opposite party.

CHAPTER XXVI.

OF COMMISSIONS AND LOCAL INVESTIGATIONS.

The insertion of clauses 391A and 391AA, which do not refer to commissions, renders desirable an expansion of the title of this Chapter and of the second of the sub-titles. We have extended the provisions of the Chapter to proceedings other than suits.

Clause 387A.—We have transferred this clause to follow clause 396, because we think that it should apply generally to all commissions. We do not think that notice is necessary where the party affected is present when the commission is issued.

Clause 388.—Sub-clause (*1*), paragraph (*b*), has been inserted to relieve the Courts of so much of the burden of commissions as is avoidable.

Sub-clause (*2*), read with the addition to clause 397, sub-clause (*1*), is intended to meet a possible difficulty where a Court issuing a commission has not foreseen the possibility of an order making over the examination to a pleader or other person remunerated by a fee.

In sub-clause (*3*) we propose to give effect to an existing practice according to which notice of the day and hour fixed for executing a commission is given to the parties.

Clause 390.—The existing Code is defective in not containing a provision corresponding with clause 386, sub-clause (*1*), paragraph (*c*).

Clause 391.—On the analogy of clauses 229B and 229A we have provided for the case of Courts not established but continued by the authority of His Majesty or of the Governor General in Council.

Clauses 391A and 391AA.—We have broken up clause 391A into two separate clauses, because we think that the power of holding the trial *in situ* is a matter of sufficient importance to be enunciated as a separate proposition.

The provisions relating to local inspection have been slightly restated. If a Judge inspects a place connected with a trial for the purpose of observing facts, he should act after notice to the parties. A memorandum prepared by him of facts so observed should, if he so desires, be available as part of the record [*Joy Coomar* v. *Bundhoo Lall* (1882), I. L. R. 9 Cal. 363; compare also, *Dwarka Nath Sardar* v. *Prosunno Kumar Hajra* (1895), 1 Cal. W. N. 682], but it follows that any party should be at liberty to object to any inaccuracy in the contents and to have it corrected. All these formalities, however, are not required where the Judge visits the spot merely to enable him more readily to appreciate evidence; and in no case should the making of an inspection or of a memorandum entitle any person to convert the Judge into a witness and subject him to examination.

Clause 392.—We have inserted sub-clause (*4*) because some provision for further inquiry, as in the case of clause 394, sub-clause (*3*), and clause 396, sub-clause (*4*), is found necessary in practice.

Clause 396.—Sub-clause (*1*) has been shortened in view of the terms of clause 215B, to which a reference has been inserted.

In sub-clause (*4*) we propose to enable a decree to be passed where the Commissioners are not unanimous or where the report contains erroneous or irrelevant matter.

Clause 397.—At the suggestion of the High Court for the North-Western Provinces, we have provided in sub-clause (*3*) for the fixing of a fresh date for the return of a commission if the date originally fixed has already elapsed.

Clause 399.—Where a commission has been issued to a private person, we think that it would be straining analogy somewhat unduly to treat him as a "Court" for the purpose of exercising, for example, the highly coercive powers conferred by clause 168. The subject, we are aware is not free from difficulty; but, on the whole, we think that the Court having local jurisdiction where a witness resides, is the best judge of the proper process; and we would accordingly require the Commissioner to apply to such Court, upon which we would confer a full discretion in the matter.

PART IV.

OF SUITS IN PARTICULAR CASES.

CHAPTER XXVII.

SUITS BY OR AGAINST PAUPERS.

Clause 401.—It has been represented to us that, if the defence of suits *in formâ pauperis* is to be permitted, the Courts will be overwhelmed with frivolous applications for this purpose. We have accordingly omitted the references to the defence of suits throughout this Chapter.

Clause 403.—Under the amended sub-clause (*2*) applications to institute suits *in formâ pauperis* must contain the particulars prescribed in the case of plaints by clause 50. In these circumstances, it is only fair that the provisions relative to the rejection or amendment of plaints should also apply. The addition of such a provision enables us to cancel the words "framed and" in clause 407, paragraph (*a*).

Clause 407.—In paragraph (*b*), sub-head (*iii*), we have provided that the Court shall reject an application if the claim is obviously frivolous or vexatious. It is not clear that this power is given or that this duty is imposed by the clause as originally drafted.

Clause 408.—The period of notice has been increased from ten days to one month in order to enable correspondence to be conducted with the Government through the usual channel.

Clause 409.—Sub-clauses (*1*) and (*2*) have been recast because objection has been taken to the expression "cross-examine" as wholly inappropriate to an examination conducted by the Court.

Sub-clause (*2*) has been framed with the object of removing the doubts expressed on the question whether the rights given by the Indian Evidence Act, 1872 (I of 1872), sections 137 and 138, are not superseded by the language of the existing section.

Clause 411.—We have omitted sub-clauses (*2*) and (*3*) but expanded their substance in a separate clause which we have inserted as clause 412A.

Clause 414.—We have modified paragraph (*c*) for greater conformity with clause 407, paragraph (*b*), sub-head (*iv*).

Clause 412.—We have omitted sub-clause (*2*) of the Bill because, although this provision exists in the present Code, we do not approve of the principle of allowing a Civil Court to sentence litigants as for a criminal offence.

Clause 413.—We have amalgamated in, it is believed, somewhat clearer language the provisions originally proposed in clauses 413 and 415.

Clause 413A.—Though we have proposed not to authorize the defence of suits *in formâ pauperis*, we are of opinion that, more especially with reference to the suggestions contained in clause 111, a set-off or counter-claim stands on the same footing as the institution of a plaint. We accordingly propose to render, so far as possible, the same provisions applicable.

CHAPTER XXVIII.

SUITS BY OR AGAINST PUBLIC OFFICERS.

Clause 416.—In sub-clause (*2*) we propose to recognize the fact that the provisions relative to the signing and verifying of plaints and written statements cannot be applied in their entirety to litigation conducted by or against the Government.

Clause 418.—A compendious title is equally convenient in suits against, as in suits by, the Government.

Clause 424.—By an addition to the Fourth Schedule we propose to amend the Indian Limitation Act, 1877, by excluding the period of two months next after notice has been delivered or left in pursuance of clause 424. To meet cases of obvious hardship, we think that where a person, having given notice, dies before instituting his suit, his legal representative should have the benefit of such notice and should be entitled to institute a suit without further conditions.

In the *explanation* we propose to affirm, in supersession of the distinction imported by rulings from Madras [*Anantharaman* v. *Ramasami* (1888), I. L. R. 11 Mad. 317] and Bombay [*Bhau Balapa* v. *Nana* (1888), I. L. R. 13 Bom. 343], the broad principle that the Collector cannot be impleaded as a defendant in his capacity of agent of the Court of Wards without due notice.

Clause 424A.—On the recommendation of the Legal Remembrancer of Bengal, we propose to recognize the necessity for allowing reasonable time for departmental reference and the uselessness of insisting upon merely official affidavits.

Clause 425.—We propose to declare once for all that a public officer sued in respect of an act purporting to be done by him in his official capacity, is not to be arrested at all even with the consent of the District Judge. We have accordingly omitted this clause and amalgamated its substance with clause 428.

Clause 426.—We have consolidated clauses 426 and 427 as relating to the same subject-matter.

Clause 428.—In this clause, with which clause 425 has been combined, we have sought to remove a verbal inconsistency, which is to be found in the present Code, between that clause and the proviso to clause 427, now incorporated in clause 426. We have substituted the expression " where the Court is satisfied " to remove the misapprehension that, at present, the public officer is bound personally to satisfy the Court of his inability to attend.

Clause 547.—We have transferred hither the provisions relating to security in the case of an appeal inasmuch as they appear to us to be misplaced in Chapter XLI of the Code.

CHAPTER XXIX.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

Clause 430A, sub-clause (2).—To render the meaning clearer, we have removed to an *explanation* the exception relating to prisoners of war and other prisoners.

Clause 433.— In sub-clause (4), for the word " any ", where it first occurred, we have substituted the word " a " to remove the misapprehension that the Governor General in Council must, in the case of each notification, authorize a particular Secretary.

CHAPTER XXX.

SUITS BY OR AGAINST CORPORATIONS AND COMPANIES.

Clause 435.—We have omitted the word " principal " in response to suggestions from the Province of Madras with a view to avoiding disputes [*Delhi and London Bank Limited*, v. *Oldham* (1893), I. L. R. 21 Cal. 60 ; *Sreenath Banerjee* v. *East Indian Railway Company* (1894), I. L. R. 22 Cal. 268] with regard to the classes of officers fitly described as " principal".

Clause 436A.—Sub-clause (2) has been added to make it clear that a corporation or company suffers in the suit for the default of its officer as though such default were its own.

CHAPTER XXXI.

SUITS BY OR AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

Clauses 438 and 439.—We have added a reference to trustees in view of the terms of clause 437.

CHAPTER XXXII.

SUITS BY OR AGAINST MINORS AND PERSONS OF UNSOUND MIND.

The corresponding Chapter of the existing Code follows a most confused arrangement. We have sought to collect the various provisions into a sequence which, we hope, will be found more readily intelligible.

Clause 440.—We propose to abolish the distinction drawn [*Beni Ram Bhutt* v. *Ram Lal Dhukri* (1886), I. L. R. 13 Cal. 189] between orders removing plaints from the list of pending cases because they appear on their face to have been filed by minors, and decrees dismissing suits which are found upon the enquiry to have been so instituted. To prevent hardship where the fact of minority is ascertained on inquiry after the period of limitation for instituting a suit has expired, we propose, by an addition to clause 588, to give a right of appeal from orders under clause 440. We further do not consider it necessary to provide specially for the case, adverted to by the High Court at Bombay [*Rattonbai* v. *Chabildas Lalloobhoy* (1888), I. L. R. 13 Bom. 7] and incorporated in clause 442, sub-clause (3), as originally drafted, of a plaint proved to have been filed with the knowledge of the fact of minority and with the intention of deceiving the Court and evading payment of costs in the event of failure.

Clause 443.—Sub-clause (4) has been amplified for closer conformity with the terms of the proposed Form No. 157A.

Clause 445.—We propose to remove the disability, for which we see no adequate necessity, of a married woman under the existing section 457.

With regard to sub-clause (2), we think that a guardian appointed or declared by competent authority should continue to have preference over outsiders ; but, as between such

guardians, we would enact that the guardian of property should ordinarily have preference over the guardian of the person.

Clause 441.—With reference to sub-clause (*1*), we think that a next friend should have all such general powers of acting on the minor's behalf in the conduct of the case as are conferred upon the guardian for the suit by the existing section 443.

While maintaining the existing provisions of section 440 relative to the payment of costs on behalf of a minor, we think it expedient to adapt, in sub-clause (*2*), the provisions of Order XLV, rule 13, by which the Court may put an official guardian for the suit in funds to make the necessary orders directing such costs to be borne by any party, or out of any fund of the minor under the control of the Court.

Clause 462.—We propose to supersede the distinction [*Aman Singh* v. *Narain Singh* (1897), I. L. R. 20 All. 98] according to which a decree passed in pursuance of an agreement or compromise can be set aside in appeal merely for failure to comply with the provisions of section 462, whereas, if the compromise is contested by the minor either by a suit by his next friend or on attainment of majority by review or regular suit, it is not enough to show that the sanction of the Court was not expressly given where the guardian *ad litem* has assented to a compromise accepted by the Court and resulting in a decree not prejudicial to the minor's interests. For this purpose, we would place appeals on the same footing as the other remedies.

With reference to the *explanation*, we propose to give legislative recognition to the interpretation that an agreement with reference to the suit includes an agreement to abide by an oath [*Chengal Reddi* v. *Venkata Reddi* (1889), I. L. R. 12 Mad. 483; *Sheo Nath Saran* v. *Sukh Lal Singh* (1899), I. L. R. 27 Cal. 229] or to refer to arbitration [*Lakshmana Chetti* v. *Chinnathambi Chetti* (1900), I. L. R. 24 Mad. 326].

Clause 455A.—We propose to extend the provisions of this Chapter to proceedings other than suits, and, in view of the amendments proposed with reference to set-off and counter-claim, to include these also within their purview.

Clause 464A.—It appears to us that orders for the payment of money under this Chapter should be summarily enforceable as if they were decrees. At present, the procedure applicable is somewhat doubtful.

CHAPTER XXXIV.

SUITS BY OR AGAINST FIRMS AND PERSONS CARRYING ON BUSINESS IN NAMES OTHER THAN THEIR OWN.

On consideration of the opinions of the authorities consulted with reference to the necessity for the imposition of limitations upon the application of this Chapter to specific areas or particular classes, we think that the simplified procedure here proposed can properly be applied to all the territories in which the Code is to be enforced. At the same time, we recognize the force of the objections taken to the suggestion to render the Chapter applicable to the members of joint Hindu families carrying on trading business which form portion of the general assets. On the whole, we are of opinion that effect should be given to existing case-law declaring that members of a joint Hindu family, who are partners for the purposes of the Indian Contract Act, 1872 (IX of 1872), have not, by reason of their personal law, advantages not existing in the case of other partners. Following this principle, we propose that the provisions of this Chapter should not be extended to members of joint Hindu families as such though they will apply to partnerships, notwithstanding that the partnership consists of members of such a family.

Clause 469A.—We have inserted sub-clause (*2*) to meet a practical difficulty of procedure pointed out to us by the Bengal Chamber of Commerce with regard to the signing and verifying of documents where the litigants in question are a firm.

Clause 469AA.—The provision here proposed, on the strong recommendation of the Chambers of Commerce of Karachi and Bengal, follows to some extent the lines of the Indian Securities Act, 1886 (XII of 1886), section 5, and will, it is hoped, settle an extremely vexed question in the sense of rulings from Allahabad [*Gobind Prasad* v. *Chandar Sekhar* (1887), I. L. R. 9 All. 486; *Debi Das* v. *Nirpat* (1898), I. L. R. 20 All. 365], Madras [*Vaidyanatha Ayyar* v. *Chinnasami Naik* (1893), I. L. R. 17 Mad. 108] and Bombay [*Motilal Bechardass* v. *Ghellabhai Hariram* (1892), I. L. R. 17 Bom. 6; *Aga Gulam Husain* v. *Sir A. D. Sassoon* (1897), I. L. R. 21 Bom. 412] as against the view entertained at Calcutta [*Ram Narain Nursing Doss* v. *Ram Chunder Jankee Loll* (1890), I. L. R. 18 Cal. 86].

Clause 469D.—In sub-clause (*1*), paragraph (*a*), we have sought to meet objections that power is required to execute a decree against property outside the local limits of the jurisdiction of the Court which passed the decree. We have added in a proviso a reference to the provisions of the Indian Contract Act, 1872, relating to the exemption from personal liability of a minor partner which otherwise might possibly be overlooked.

In sub-clause (*3*) we have declared, for convenience of procedure, that orders determining the liability of any person shall be capable of appeal and execution as if they were decrees.

CHAPTER XXXV.

INTERPLEADER.

Clause 470.—In defining the scope of this provision, we have referred to debts and sums of money and other moveable property as an indication of the ordinary cases arising under Order LVII, rule 1. At the same time, we find that the procedure here provided has been adopted with great benefit in relation to immoveable property held by the Court of Wards in the character of a stakeholder. We accordingly propose to render it clear that the provision is not confined, as has often been supposed (Stokes, *Anglo-Indian Codes*, ed. 1888, Vol. II, p. 646), to moveable property only. We think, moreover, that the bar created by the proviso should not be restricted to suits but should extend to other proceedings also.

Clause 472.—The procedure by payment or deposit is plainly not applicable to immoveable property to which clause 470, as redrafted, declares the provisions of the Chapter to extend. We have accordingly worded this clause as permissive instead of leaving it imperative as at present.

PART V.

PROVISIONAL REMEDIES.

CHAPTER XXXVI.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

From the title we have removed the words "except as regards immoveable property" as inconsistent with the *explanation* to clause 483.

Clause 477.—We have amalgamated sub-clauses (*1*) and (*2*) which appear to us to be illogical as requiring a plaintiff to satisfy the Court of certain facts before he makes an application founded thereon. We think that, after the application has been presented, the Court should be satisfied of the facts before process is issued and should have a discretion to make such further inquiry, if any, as may appear to be desirable.

We have added a proviso to guard against the hardship of arrest where payment of any sum specified in the warrant is made to the officer executing it. It appears to us that in such circumstances it is quite unnecessary to drag the defendant in custody before the Court.

We have omitted the concluding passage of sub-clause (*4*) of the Bill as originally drafted because we consider it to be sufficiently covered by the provisions of clause 253.

Clause 481.—We have rendered it clear that, though the penalty is for contempt of a judicial order, the detention here contemplated is to be in the civil prison.

Clause 491A.—We have transferred this provision to what we consider a more appropriate position in the Code.

Clause 483.—We have amalgamated sub-clauses (*1*) and (*3*) for conformity with clause 477 as amended.

There is at present a conflict on the question whether the terms of the existing sections 483 and 484, read with section 648, do [*Ram Pertab Jhowar* v. *Madho Rai* (1902), 7 Cal. W. N. 216] or do not [*Krishnasami* v. *Engel* (1884), I. L. R. 8 Mad. 20] authorize the Court to attach property beyond jurisdiction. We think that the difficulty does not arise under our redraft of sub-clause (*1*), but, for greater clearness, we have expanded the *explanation* so as to give effect expressly to the Calcutta practice.

Clause 488.—The proviso which was intended to give effect to a ruling [*Ram Chand* v. *Pitam Mal* (1888), I. L. R. 10 All. 506] has been omitted because, in the case of attachments governed by clause 274, the order ceases to operate by the efflux of a specific period.

Clause 490.—We have introduced a reference to the subsistence of the attachment for the sake of conformity with clause 275 as proposed to be amended.

Clause 490A.—The exemption of growing crops from attachment before judgment would serve little purpose if the same crops are liable to attachment as soon as they are cut or gathered.

Clause 491.—It has been brought to our notice that the existing proviso is inadequate inasmuch as suits for compensation have been removed from the cognizance of Courts of Small Causes. In these circumstances, we have added a proviso fixing a pecuniary limit in the case of Courts incompetent to try such suits.

CHAPTER XXXVII.

OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

Clause 492.—The expression "wrongfully", which savours of a tortious act, cannot be properly applied to a judicial sale, and we have accordingly proposed to substitute the word "improperly". The addition of the words "until the suit is disposed of or until the further order of the Court" is intended to give effect to two decisions on the subject [*Shaikh Moheeooddeen* v. *Shaikh Ahmed Hossein* (1870), 14 W. R. 384; *Gossain Money Puree* v. *Guru Pershad Singh* (1884), I. L. R. 11 Cal. 146].

Clause 493.—In sub-clause (1), for the words "a breach" and "other injury" or "injury," wherever they occur, we have substituted the words "any breach" and "tortious act", respectively, to supersede an Allahabad decision [*Darab Kuar* v. *Gomti Kuar* (1900), I. L. R. 22 All. 449], which has been criticized as of doubtful authority [compare, *Earl of Mexborough* v. *Bower* (1843), 7 Beav. 127; *Hervey* v. *Smith* (1855) 1 K. & J. 389].

We have remodelled sub-clause (3) to give effect to a Bombay decision [*The Advocate General of Bombay* v. *Gangji Akhai* (1894), I. L. R. 19 Bom. 152, at p. 155]; but, as in other cases, we would limit the penalty to detention in the civil prison.

Clause 498.—The benefit of the provisions of this clause should plainly be claimable in the case of attachment before judgment.

Clause 499.—To obviate difficulties arising in practice we propose to authorize the Court to inventory the property.

CHAPTER XXXVIII.

APPOINTMENT OF RECEIVERS.

Clause 503.—In sub-clause (2), paragraph (*e*), we have substituted the expression "officer of the Court appointed to be receiver of estates" for the words "official receiver" which have been misunderstood as covering any official who happens, for the purposes of a particular suit or attachment, to be appointed to be the receiver of specific property.

Sub-clause (3) of the Bill as originally drafted has been omitted because the underlying case-law [*Sidheswari Dabi* v. *Abhoyeswari Dabi* (1888), I. L. R. 15 Cal. 818; *Chandidat Jha* v. *Padmanand Singh Bahadur* (1895), I. L. R. 22 Cal. 459] appears to us to be too stringent for incorporation in the Code.

In sub-clauses (4) and (5) we propose to authorize a summary method of recovery by attachment of the property of the receiver, though we feel ourselves unable to extend this remedy to a surety also, because moneys paid over to a receiver are not in the hands of a private person but *in custodia legis* [compare, *Orr* v. *Muthia Chetti* (1893), I. L. R. 17 Mad. 501; *Muthia Chetti* v. *Orr* (1895-1897), I. L. R. 20 Mad. 224], whereas the determination of a surety's liability is a proper subject for a suit.

Clause 504.—Sub-clause (2) was originally drafted to give effect to a practice in many Courts of notifying to the Collector the appointment of a receiver of property paying revenue to the Government. While admitting the convenience of such a practice, we do not think it necessary to render it compulsory in all cases. We have accordingly omitted the sub-clause.

Clause 505.—Sub-clause (3) is intended to remove the ambiguity of the existing proviso and to supersede a decision from Allahabad [*Amar Nath* v. *Raj Nath* (1896), I. L. R. 18 All. 453] while giving effect to a ruling from Calcutta [*Birajan Kooer* v. *Ram Churn Lall Mahata* (1881), I. L. R. 7 Cal. 719].

PART VI.

OF SPECIAL PROCEEDINGS.

CHAPTER XXXIX.

REFERENCE TO ARBITRATION.

We have prefixed sub-titles to portions of this Chapter for facility of reference.

Clause 506.—We consider the provisions of this Chapter to be equally applicable to suits and other proceedings.

In sub-clause (2) we have omitted the word "particular" because a general reference relating to "all matters" in dispute is contemplated by Forms Nos. 170 and 171 of the Third Schedule.

We have added sub-clause (3) to give effect to the principle enunciated by Their Lordships of the Privy Council [*Pestonjee Nussurwanjee* v. *Manockjee* (1868), 12 Moo. I. A. 112, at page 130] that an agreement to refer to arbitration cannot be revoked by any party without good cause and that a mere arbitrary revocation will not be permitted by the Court.

Clause 507.—Sub-clause (2) of the original Bill has been omitted in view of the terms of clause 510 as redrafted.

Clauses 508 and 509.—The word "making" has been substituted for the word "delivery" in view of a decision of the High Court at Madras [*Arumugam Chetti* v. *Arunachalam Chetti* (1898), I. L. R. 22 Mad. 22]. A similar amendment will be found in clause 514.

Clause 510.—We have amalgamated clause 507, sub-clause (2), clause 510 and clause 511 on the analogy of the Indian Arbitration Act, 1899 (IX of 1899), section 8, and

have provided that the powers of the Court shall not be exercised until the parties have failed to act within a reasonable period. This principle, however, cannot be applied to the misconduct of an arbitrator in its entirety; and we have accordingly provided in sub-clause (*1*), paragraph (*b*), sub-head (*iv*), for the case not of misconduct but of removal by the Court; and we have inserted clause 512A, on the analogy of section 16 of the enactment already quoted, to enable the Court to remove an arbitrator or an umpire for misconduct. We do not think that it is necessary to preserve the power which is given by the concluding passage of the existing section 510 but has no counterpart in the Indian Arbitration Act, 1899, to make an order superseding the arbitration in the cases referred to in this provision.

Clause 514.—The recital of causes in the existing section appears to us mere surplusage. We have, moreover, omitted the parentheses inserted in the Bill, because we think that, in the absence of an absolute discretion conferred on the Court, one party or the other is certain to object to the enlargement of the time.

Clause 516.—We think it embarrassing and unnecessary to exact signature from dissentient arbitrators.

In connection with this clause and clause 525 we have proposed, by an amendment of the Fourth Schedule, the substitution of two articles for the existing article 176 of the Second Schedule to the Indian Limitation Act, 1877. It has been pointed out to us that this article, in so far as it refers to section 516, is inaccurate because that section does not provide for an application by parties since the award is filed under the orders of the Court [*Maharajah Sir Joy Mungul Singh* v. *Mohun Ram Marwaree* (1869), 12 W.R. 397; *Robarts* v. *Harrison* (1881), I. L. R. 7 Cal. 333]. On the other hand, there is no provision for limitation in the case of an application under section 523. In respect of clause 525, the Bill proposes to exclude all the concurrent remedies which at present exist outside the limits of this Chapter. In these circumstances, hardship may arise if limitation is declared to run from the date of the award. It may happen, for example, that the award provides for the payment of a first instalment after the lapse of one year, or the parties may for years together act upon the terms of the award without infringing them. If, in these cases, the parties are strictly limited to a period of six months commencing to run from the date of the award, the result will be that they will be driven to the trouble and expense of a judicial proceeding long before any necessity for it arises. In fact, it would appear that, more especially in the case of conciliation proceedings, a large number of claims under awards would probably become time-barred before the provisions of the proposed Code are familiar, at any rate, to the lower classes. For these reasons it is proposed to declare in article 176A that limitation shall run from the date on which any right given by the award is infringed by the person against whom it is sought to enforce such award.

Clause 520.—In paragraph (*a*) we propose to obviate the necessity for remitting awards for the elimination of obvious irrelevancy.

Clause 521.—On the analogy of the Indian Arbitration Act, 1899, section 16, we have provided for the case in which the arbitration or the award has been improperly procured. In view of this addition, paragraph (*b*) of the Bill, as originally drafted, becomes unnecessary.

Clause 523.—There seems no reason to insist, in sub-clause (*3*), upon the issue of a notice where the Court on the materials before it sees reason to dismiss the application without further discussion.

Clause 523A.—The language adapted from the Indian Arbitration Act, 1899, section 19, has been slightly modified as being more in harmony with the practice of the Presidency Courts than with the other provisions of this Code.

Clause 525.—From sub-clause (*3*), which we have re-arranged as sub-clause (*4*), the word "otherwise" has been omitted because the filing of an award is not a mode of enforcement.

Clause 526A.—We have slightly recast this section to render it clear that an appeal will lie on the ground that there has been no valid submission to arbitration or no valid award. In other respects we propose to affirm the principle embodied in the Bill that the grounds capable of being taken in appeal against proceedings under this Chapter must relate to the failure of the Court to perform a duty imposed upon it or to exercise properly a discretion conferred upon it.

CHAPTER XLI.

OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

Clause 532.—Sub-clause (*3*) has been modified to meet a representation of the Madras Chamber of Commerce to the effect that a maximum rate of interest should be fixed in the Code where no rate is specified in the negotiable instrument.

Our attention has been directed to an unreported decision [*per* Amir Ali, J., *Bhugutram* v. *Rajah Sir Surendro Mohun Tagore* (1903)] in which the *explanation*, embodied as

sub-clause (5) in the Bill, is criticized as unintelligible. The *explanation*, which is reproduced *verbatim* from Act X of 1877, was intended to supersede two decisions [*The Chartered Mercantile Bank* v. *Seconde* (1869), 3 B. L. R. (O. C.) 146; *Remfry* v. *Shillingford* (1876), I. L. R. 1 Cal. 130], necessitated, in the opinion of the High Court of Calcutta, by the terms of Act V of 1866, which that enactment repealed. Having regard to the practice of twenty-six years and to the terms of Order XIV of the Rules of the Supreme Court, we are strongly of opinion that there should be no reversion to the narrow scope of Act V of 1866, but that this summary and inexpensive process should be available, notwithstanding that the cause of action involves facts which, if not admitted by the defendant, would have to be proved by the plaintiff. As, however, we agree in thinking the *explanation* not to be readily intelligible without a knowledge of the superseded case-law, we have restated the rule and embodied as illustrations the facts of the decisions which it negatives.

CHAPTER XLII.

OF SUITS RELATING TO PUBLIC CHARITIES.

Clause 539.—For the words "public charitable or religious purposes" in sub-clause (1) we have substituted the words "public purposes of a charitable or religious nature" to obviate recurrence of the frequent misconception that "public" is merely co-ordinate with "charitable" or "religious."

Sub-clause (3) has been added because, though perhaps it is not strictly necessary, may serve to obviate barren discussions on the question whether action under this provision is necessary where a right of suit exists independently of it.

PART VII.

OF INCIDENTAL PROCEEDINGS.

CHAPTER XLIII.

OF APPEALS FROM ORIGINAL DECREES.

Clause 540.—In sub-clause (3) we propose to supersede, in the sense of two rulings [*Boloram Dey* v. *Ram Chundra Dey* (1895), I. L. R. 23 Cal. 279; *Khadem Hossein* v. *Emdad Hossein* (1901), I. L. R. 29 Cal. 758], the decision [*Biswa Nath Chaki* v. *Bani Kanta Dutta* (1896), I. L. R. 23 Cal. 406] to which the Bill originally proposed to give effect.

Clause 540A.—The words "or other proceeding" have been inserted in view of a Calcutta decision [*Hira Lal Ghosh* v. *Chunder Kant Ghosh* (1899), 3 Cal. W. N. 403] with reference to appeals from decrees under section 244.

We apprehend that inconvenience would be occasioned by the double inquiry contemplated by this provision as originally drafted. It appears to us that the reference to the Court which passed the decree is hardly necessary and that it would suffice to declare that the appellant-transferee shall set forth his title for the information of the Appellate Court, to whose satisfaction he shall be bound to prove his title before he can claim to be heard on the merits.

Clauses 541 to 543F.—It has been represented to us, more especially from opinions given in the Central Provinces, that the procedure relative to the presentation of the memoranda of appeal and to their amendment and rejection is most inadequately stated in the Code. In fact, it is understood that the existing sections have to be largely supplemented by varying practice borrowed by analogy from the sections relating to plaints in suits. It is proposed, therefore, to adapt these provisions, so far as possible, for the guidance of Courts which are not always in a position to have ready access to law libraries. In making this adaptation, we have decided that the reasons for requiring as many copies of a plaint as there are defendants do not exist in the case of memoranda of appeal; and we accordingly propose not to require copies of the memorandum to be filed until, as provided in the addition to clause 552, sub-clause (1), the Court has determined not to dismiss the appeal summarily but to fix a day for the hearing.

Clause 542.—The general opinion appears to be that the case-law which it was sought to embody in clause 541, sub-clause (4), paragraph (b), of the Bill is too stringently expressed. In our opinion, the appellant should always be at liberty to raise questions of law arising upon the record, inasmuch as there can be no waiver in this respect. On the other hand, we are clearly of opinion that objections of fact not taken or taken and waived in the Lower Court should not be taken without the leave of the Appellate Court. Otherwise, it appears to us, the hearing will necessarily be prolonged by the necessity for remands upon questions of fact by which unscrupulous litigants attempt to surprise the adverse party in appeal and with reference to which protracted and expensive remands would become necessary.

Clause 545.—We have recast this provision to give effect to a ruling [*Pasupati Nath Bose* v. *Nanda Lal Bose* (1901), I. L. R. 28 Cal. 734] according to which not merely an incidental decree under appeal under section 244 but also the substantive decree under execution may be stayed under this provision. We think, moreover, that, following the principle of the decision [*Multanchand Shivram* v. *Khan Saheb Kharsedji Nasarvanji* (1891), I. L. R. 15 Bom. 536] underlying the amendments proposed in the original Bill, the Court should have the fullest discretion in the matter of stay, provided that no final order is made without notice to the decree-holder. We accordingly propose to give the Court a discretion to dispense with deposit of the decretal amount or security for the due performance of the decree or final order. We have further amplified the clause to render it clear that, where the Court considers immediate stay of execution to be necessary, it may make an *ex parte* order to the effect which will, however, be liable to be discharged after hearing the parties.

Clause 546.—Sub-clause (*1*) has been transferred to clause 238A and sub-clause (*3*) has been inserted after clause 327, as more appropriate positions in the Code.

Clause 547.—We have transferred this provision to Chapter XXVIII, to which the subject seems more appropriately to belong.

Clause 549.—Sub-clause (*3*), as originally drafted, was intended to embody and settle a considerable amount of case-law which has been the subject of much discussion and conflict. There seems, however, to be a feeling that it proceeds too far in the direction of instructions to the Courts, and that questions of this description should be left to be settled by the practice of the principal tribunals concerned. In these circumstances, we have proposed to omit the provision altogether.

Clause 550.—We think that this provision would more appropriately follow clause 552. It does not appear to us to be necessary that notice should be sent whenever a memorandum of appeal is registered as provided by clause 548. In our opinion it would suffice that such notice should be sent if the Appellate Court does not dismiss the appeal summarily under clause 551.

Clause 551.—We are of opinion that, before summarily dismissing an appeal without notice to the respondent, the Court should be expressly empowered to send for the record in accordance with the practice prescribed by the Code of Criminal Procedure, 1898, section 421, sub-section (*2*).

Clause 552.—In sub-clause (*1*) we have provided that the appellant shall, within such time as the Court may direct, furnish as many copies on plain paper of the memorandum of appeal as there are respondents. This provision will harmonize the procedure with that prescribed in the case of plaints except that it will not be necessary to provide the copies until it is certain that process will issue to the respondent.

Clause 555.—It has been represented to us that sub-clause (*1*), paragraph (*c*), of the Bill was too widely expressed for the circumstances of litigation in Appellate Courts subordinate to the High Courts upon whose procedure the provision was originally modelled. It is accordingly proposed to limit the provision by declaring that the list shall contain only so many appeals as are set down for hearing within a specified period, and that it shall apply only to cases in which all the parties appearing are represented by pleader.

Sub-clause (*3*), which was intended to give effect to a Bombay decision [*Rustomji Burjorji* v. *Kessowji* (1884), I. L. R. 8 Bom. 287] has been omitted in view of opinions expressed to the effect that guidance on this point is not required by the Courts.

Clause 556.—We have relaxed the stringency of sub-clause (*1*) because it has been represented to us that, where parties are detained by some interruption of communication like a flood, the Court might reasonably adjourn the hearing without putting the appellant to the trouble and expense of a separate proceeding under clause 558.

Clauses 558 to 560.—The amendments, which are self-explanatory, are intended to meet difficulties disclosed by practice.

Clause 561.—The insertion of the provisions contained in sub-clause (*4*) have rendered it essential, by re-modelling sub-clause (*2*), to render objections liable to the court-fee payable on a memorandum of appeal.

Sub-clause (*3*) has been modified to provide for the case of matters in controversy between parties arrayed on the same side.

Sub-clause (*4*) has been omitted because we propose, as explained under Chapter XLVI, to abolish the right to object *in formâ pauperis*.

Clause 562.—Exception has been taken to the expression "grounds other than the merits" which, in paragraph (*a*) as provisionally drafted, it was proposed to substitute for the words "preliminary point" on the authority of certain cases [*Sheoambar Singh* v. *Lallu Singh*, referred to in *Sohawan* v. *Babu Nand* (1886), I. L. R. 9 All. 26, *note* at p. 32; *Muhammad Allahdad Khan* v. *Muhammad Ismail Khan* (1888), I. L. R. 10 All. 289; *Ramachandra Joishi* v. *Hazi Kassim* (1892), I. L. R. 16 Mad. 207; *Kanakammal* v. *Rangachariar* (1896), I. L. R. 20 Mad. 25]. It may often happen [*Habib Baksh* v. *Baldeo Prasad* (1901), I. L. R. 23 All. 167] that a remand is necessary in a case in which

there has been a decision upon a part of the merits, but the point determined does not, in the opinion of the Appellate Court, amount to a complete and effectual adjudication on the whole matter in controversy. It has been reported to us that the practice in various Provinces differs on the question whether evidence recorded in the proceedings leading up to the decree set aside under section 562 is in itself available as evidence during the retrial or whether it can only be made admissible, in the case of witnesses attending at the hearing, by examining them upon their previous depositions as statements recorded in a different proceeding. We are of opinion that, subject to all just exceptions, such depositions should, of their own force, be available as evidence.

Clause 565.—The scope of this clause is limited to cases in which the evidence upon the record is sufficient to enable the Appellate Court to determine the suit. We are of opinion that, in such cases, the Appellate Court should have the power of requiring the Court of first instance, which has had the advantage of seeing and hearing the witnesses, to record its finding upon an issue which it has erroneously left undetermined.

Clause 571.—We have recast sub-clauses (*1*) and (*2*) with a view to leaving al questions of language to the operation of clause 645 and harmonizing the provisions with the procedure introduced in clause 198.

From sub-clause (*4*) we have omitted paragraph (*a*), which required a concise statement of the case, because we think that this can be sufficiently gathered from the judgment leading up to the decree appealed from.

The two provisos of this sub-clause were intended, in the interests of public time and economy to prevent the writing of formal judgments, which really amount to repetition of the decision affirmed, on the principle now accepted in criminal cases [*Rash Behari Das* v. *Balgopal Singh* (1893), I. L. R. 21 Cal. 92 ; *Queen-Empress* v. *Warubai* (1895), I. L. R. 20 Bom. 540 ; *see* also *Queen-Empress* v. *Nannhu* (1895), I. L. R. 17 All. 241 ; *Queen-Empress* v. *Pandeh Bhat* (1897), I. L. R. 19 All. 506]. It was accordingly proposed to supersede a decision to the effect that a formal judgment must be recorded in dismissing a civil appeal summarily under section 551 [*Rami Deka* v. *Brojo Nath Saikia* (1897), I. L. R. 25 Cal. 97] and that reasons must be given [*Sohawan* v. *Babu Nand* (1886), I. L. R. 9 All. 26 ; *Haimabati Dasi* v. *Govinda Chandra* alias *Sham Ghosh* (1898), 2 Cal. W. N. 695], even though the Appellate Court generally agrees in the judgment of first instance [*Khettur Mohun Gossain* v. *Bhyrub Chunder Sheet* (1865), 3 W. R. 126 ; *Bhagbut Khan* v. *Puddo Bewa* (1865), 3 W. R. 192 ; *Korban Ali* v. *Ashan Ali* alias *Lotf Ali* (1865), 4 W. R. 4 ; *Sitarama Sastrulu* v. *Suryanarayana Sastrulu* (1898), I. L. R. 22 Mad. 12]. There appears, however, to be a strong feeling that, even in the case of summary dismissal, a record of reasons affords a necessary safeguard against hasty or negligent methods of disposal. In these circumstances, both the provisos have been omitted.

Clause 575.—We have harmonized the language of sub-clause (*4*) in view of the alteration introduced into sub-clause (*2*).

Clause 578A.—This provision, which reproduced the language of the Suits Valuation Act, 1887 (VII of 1887), section 11, has been criticized as needlessly elaborate ; and it has been pointed out more especially that paragraph (*b*) of sub-clause (*1*), as originally drafted, is unnecessary because, as a matter of practice, over-valuation or under-valuation of a suit or appeal can in no way affect the disposal of the suit or appeal on the merits. We have accordingly omitted this paragraph and proposed a consequential redraft in a simplified form of the whole provision.

Sub-clause (*4*) we propose to omit ; and its substance will be found reproduced in an addition to clause 622.

Clause 579.—The proviso to sub-clause (*1*), as originally drafted, proposed to relieve Judges dissenting from the decision of the duty of signing the decree. We see no necessity for providing for this matter.

Clause 579A.—We have added sub-clause (*4*) to give effect to the existing practice according to which the decree of the Appellate Court is deemed for all purposes relating to execution to be the decree of the Court of first instance.

Clause 579B.—We have recast this provision to render it clear that not merely the powers of amendment but also the appellate remedies given by clause 206A are to apply to decrees of the Appellate Court.

The proviso in the Bill, as originally drafted, proposed to make a sacrifice of strictly logical principle for the convenience of suitors by obviating the necessity for elaborate and expensive references to the High Court or to the District Judge where the decree sought to be amended has been simply affirmed on appeal. In view of the opposition disclosed in the opinions of authorities consulted, we feel constrained to revert to the principle underlying the existing case-law, that the decree of the Court of first instance is superseded by the appellate decree, which alone is capable of amendment and can, therefore, be amended only by the Court passing it.

Clause 582A.—We have omitted this provision, the substance of which it is proposed to reproduce in clause 543A and in Chapter XLVII.

Clause 583.—In sub-clause (*1*) the expression "suit contemplated by Chapter XIX", now XX, has been criticized as too general. We think that it will be more in accordance with the usages of statutory draftsmanship to limit the provision to suits "a right to which is expressly given or order expressly saved" by the provisions referred to.

We have slightly altered the language of sub-clause (*2*) in order to avoid a possible misconception in connection with its application to second appeals by virtue of the operation of clause 587. It might be gathered that, where an appellate decree is reversed in second appeal, the application for execution would have to be made to the Court of intermediate appeal.

In regard to sub-clause (*4*), we think that the powers here given should not be exercised by the Court of its own motion but should be limited to cases in which the party desiring restitution applies for it.

CHAPTER XLIV.

OF APPEALS FROM APPELLATE DECREES.

Clause 584.—In sub-clause (*1*), paragraph (*c*), the words "or enactment for the time being in force" were inserted to prevent recurrence of the misconception that, on the *ejusdem generis* principle, "law" is limited to "written law" of the same nature as the Code. We have omitted the words in two places because we consider the meaning of "law" to be sufficiently explicit.

In sub-clause (*2*) we have, with respect to suits of the nature cognizable by a Court of Small Causes, restored the existing minimum valuation of five hundred rupees now prescribed by section 586. On the other hand, we propose to take the subject-matter of the appeal, and not that of the original suit, to be, as is partly the case with appeals to His Majesty in Council, the test of appealability.

With regard to other suits, we are of opinion that the imposition of a hard and fast money limit would be productive of hardship. For the purposes of court-fees, land is valued at a specially low figure; and many suits, such as those for declarations, are assessed a fixed duty of ten rupees, although, in such cases, a second appeal ought not to be excluded. We accordingly propose to allow a second appeal in all cases, not of a nature cognizable by a Court of Small Causes, in which the value or subject-matter of the original suit exceeds one hundred rupees or the decree appealed from involves a claim to, or question respecting, property exceeding such value. Below this limit, we would authorize the Local Government, with the previous sanction of the Governor General in Council for the sake of preventing avoidable divergences of practice, to bar the right of second appeal in any class of cases in which they are of opinion that the decree of the Court of first appeal ought to be final. As, however, such action would have the effect of barring rights actually existing, we think that the Local Government should be bound to publish a draft of its proposed notification for previous criticism.

We have omitted the provisions of the Bill relating to security for second appeals in the case of concurrent decrees. A respondent decree-holder is at liberty, under clause 545, to execute his decree notwithstanding the preferment of an appeal; and, if the appellant desires a stay of such execution, the same provision already authorizes the taking of security. To compel the Courts to take security in every second appeal might, we think, debar the poorer classes of litigants from their remedy even where the illegality is patent on the face of the decree.

Clause 585.—We think that the proviso to clause 585, as originally drafted, should be enacted as a substantive proposition.

Clause 587.—We recognize the necessity for careful scrutiny of second appeals before their admission. It would, however, be a waste of labour to take action under clause 551 if the appeal, on the face of it, cannot be summarily dismissed. We would leave it to the High Courts to determine whether notice should or should not be issued to the respondent without a preliminary hearing of the appellant.

CHAPTER XLV.

OF APPEALS FROM ORDERS.

Clause 588.—On the representation of the various Chartered High Courts, we have considerably shortened the list of appealable orders.

Sub-heads (*1*) to (*5*), (*9*), (*10*), (*13*), (*14*), (*22*) and (*26*) of the original Bill have been altogether omitted.

So much of sub-heads (*6*) and (*11*), now re-numbered (*1*) and (*5*), as relate to return for purposes of amendment does not appear to us to be required. In fact, we have altogether struck out of sub-head (*11*) so much as related to rejection or return of a written statement, in regard to which we think that proceedings should not be delayed by a separate appeal.

Sub-head (*7*), now re-numbered (*2*), we have amplified by a reference to clause 99, which seems to us to stand, for the present purpose, on the same footing as clause 103.

Sub-head (*8*), now re-numbered (*3*), should, like sub-head (*7*), now re-numbered (*2*), be limited to cases open to appeal.

With reference to sub-head (*15*), now re-numbered (*6*), we see no reason why a righ of appeal should be given against the sale of property attached entirely for purposes o a coercive process to enforce attendance.

Sub-head (*19*), as amplified by us in the present sub-head (*10*), will supersede a decision [*Rahima* v. *Nepal Rai* (1892), I. L. R. 14 All. 520] according to which an order under the Transfer of Property Act, 1882 (IV of 1882), section 7, postponing the day appointed for payment is at present a decree open to first and second appeal. In our opinion, the order of the Court of first appeal should be final and conclusive whether the order which it is sought to impeach extends or refuses to extend the time for the payment of mortgage-money.

With regard to sub-head (*24*), now re-numbered (*14*), we think that any order under section 372, whether it does or does not disallow an objection, should be open to one appeal only.

Sub-head (*16*), as newly inserted by us, is necessary because, in clause 140, we have proposed to supersede a Calcutta ruling [*Beni Ram Bhutt* v. *Ram Lal Dhukri* (1886), I. L. R. 13 Cal. 189] according to which a suit instituted by an unrepresented minor must, if the fact of minority does not appear on the face of the plaint but is discovered after inquiry, be dismissed by a decree open to first and second appeal. Our suggestion is to extend to such cases the procedure of taking the plaint off the list of pending cases ; but, if a right of appeal is not given, hardship might arise where the fact of minority is discovered after the period of limitation has expired.

Sub-head (*26*) has been omitted by us on the ground that an application to institute or continue a suit as a pauper is a matter of grace with respect to which the Court's discretion should be final.

By an addition to sub-head (*29*); now re-numbered (*19*), we propose, in cases other than those tried by a Court of Small Causes, to allow a single appeal against orders regarding compensation for improper arrest or attachment prior to judgment. We see, however, no reason why an order discharging a surety under clause 480 or directing a deposit of money or other property under clause 502 should be liable to be impeached by appeal.

Our suggested sub-head (*22*) will supersede decisions [*Gulab Rai* v. *Mangli Lal* (1884), I. L. R. 7 All. 42 ; *Gunga Dass Dey* v. *Ramjoy Dey* (1885), I. L. R. 12 Cal. 30] declaring a decision rejecting an appeal as time-barred to be a decree. We think that in this instance, as also in the case of rejection of appeal under clause 543A or clause 549, one appeal furnishes an adequate remedy.

Sub-head (*23*), as proposed by us, seeks to place orders returning a memorandum of appeal under clause 543F upon the same footing as corresponding orders returning a plaint under sub-head (*1*).

We have declared the operation of sub-clause (*2*) to be "subject to the provisions of Chapter XLVII" because, without this qualification, the expression "final and conclusive", as now defined in clause 2, paragraph (*j*), will preclude right of appeal to the Privy Council.

Clause 589.—We have omitted the proviso because we propose to exclude the existing sub-head (*17*) of clause 588, relating to insolvency matters, from the Bill.

Clause 591.—We think that the "errors, difficulties or irregularities" here referred to should be limited to those affecting the decision of the case "on the merits" [*Chintamony Dassi* v. *Raghoonath Sahoo* (1895), I. L. R. 22 Cal. 981]. The words "from which no separate appeal lies under this Code" were imported into the Bill to supersede the very numerous rulings to the effect that there is no law in India compelling a party to resort to a right of appeal from an interlocutory order under the penalty of forfeiting the power to impugn such order in appeal from the final decree. Having abandoned this principle in clause 540, sub-clause (*3*), in the case of preliminary and final decrees, we do not feel justified in insisting upon it in the case of orders appealable under clause 588. It may be added that, in view of the removal of most of the interlocutory orders at present included in section 588, the retention of these words is not a matter of great importance.

CHAPTER XLVI.

OF PAUPER APPEALS.

Clause 592.—We do not think that the exceptional liberty of moving a Court *in formâ pauperis* should extend to objections to appeals.

CHAPTER XLVII.

OF APPEALS TO THE KING IN COUNCIL.

Clause 596.—From sub-clause (*2*) we have omitted the words "each final and conclusive" in view of the definition proposed in clause 2, paragraph (*j*).

Clause 608.—From sub-clause (*1*) we have omitted the words "admitting the appeal" inasmuch as they create a difficulty of interpretation for the removal of which a decision [*Dame Janbai* v. *Sale Mahomed* (1894), I. L. R. 19 Bom. 10] was required.

Clause 610.—We have redrafted sub-clause (*3*) to supersede a ruling from Madras [*Arunachellam* v. *Arunachellam* (1891), I. L. R. 15 Mad. 203; see, also *Surjoo Das* v. *Balmakund Das* (1895), I. L. R. 23 Cal. 212].

Clause 611.—Our redraft of the opening portion of this provision covers the substance of clause 2, sub-clause (*1*), paragraph (*f*), sub-head (*xii*) [compare, *In the Matter of the Petition of Kally Soondery Dabia* (1881), I. L. R. 6 Cal. 594] standing in the Bill as originally drafted.

Clause 615.—This provision, which has been reproduced at the various revisions of the Code from the Privy Council Appeals Act, 1874 (IV of 1874), section 24, has long had reference to an entirely obsolete procedure. Bengal Regulation III of 1828, section IV, has disappeared from the statute book by the passing of the Repealing and Amending Act, 1903 (I of 1903). In these circumstances, we propose the omission of clause 615.

PART VIII.

CHAPTER XLVIII.

OF REFERENCES TO THE HIGH COURT.

Clause 619.—At the suggestion of the High Court for the North-Western Provinces we have relaxed the existing language of the Code, which, if strictly interpreted, requires a hearing of the parties even though they have not appeared.

Clauses 646A and 646B.—We have transferred these provisions from the existing Chapter XLIX in which they appear to us to be misplaced.

CHAPTER XLIX.

OF REVISION BY THE HIGH COURT.

Clause 622.—Paragraph (*a*) of sub-clause (*1*) has been redrafted in accordance with the principles adopted with reference to clauses 578 and 578A.

In paragraph (*c*), the language, which has been criticized as cumbrous, has been slightly modified.

Sub-clause (*2*), as added by us, reproduces the substance of sub-clause (*4*), which we propose to omit from clause 578A.

The Bill as originally drafted proposed, by an entry in the Second Schedule, to render the provisions of this Chapter applicable to Provincial Courts of Small Causes. The opinions of authorities consulted appear to be in favour of adhering to the wider provisions of the Provincial Small Cause Courts Act, 1887 (IX of 1887), section 25. We have accordingly expunged the entry from the Schedule.

PART IX.

CHAPTER L.

OF REVIEW.

Clause 623.—Sub-clauses (*3*) and (*4*) aim at providing for a procedure in two cases with respect to which the existing Code is silent [compare *Bharat Chandra Mazumdar* v. *Ramgunga Sen* (1866), B. L. R. (F. B.) 362; *Thacoor Prosad* v. *Baluck Ram* (1882), 12 C. L. R. 64].

Clause 624.—We have placed arithmetical on the same footing as clerical errors, and have somewhat shortened sub-clause (*2*) for the purpose of closer conformity with clause 623.

Clause 625.—At present, it is not necessary that an application for review should be accompanied by a copy of the judgment, decree or order sought to be reviewed [*Wajid Ali Shah* v. *Nawal Kishore* (1893), I. L. R. 17 All. 213]. This position is inconvenient in so far as the Court cannot summarily decide whether the application is time-barred and the applicant is not entitled to exclude from the period of limitation the time occupied in obtaining a copy. We propose, therefore, to assimilate the procedure to that prescribed by clause 541 in the case of appeals.

PART X.

CHAPTER LI.

SPECIAL RULES RELATING TO CHARTERED HIGH COURTS.

Clause 638.—The omission of a reference to section 185A in the present Code seems to be due to inadvertence. We have added references to the proviso to clause 220,

sub-clause (*2*), and to clause 571, which are not in accordance with the rules and the practice of the High Court of Calcutta.

PART XI.

CHAPTER LII.

MISCELLANEOUS.

Clause 645.—Doubts have been entertained on the question whether the existing provisions of the Code, which authorize the Local Government to declare what shall be the language of the Court, also authorize it to declare in what character that language shall be written. We are of opinion that, if the Local Government is to determine the language to be employed, it should also be empowered to decide which character is likely to be most convenient.

In sub-clause (*3*) we have sought to deal broadly with the general question of the use of English in place of any other language of the Court. In our opinion, there is no objection to the use of English as the medium of any written proceeding of the Court or of the parties other than the recording of evidence, provided that reasonable facilities for obtaining translations into the language of the Court are afforded to the parties or pleaders not acquainted with English.

Clause 649.—Clause 653 has been transferred to follow clause 337 in Chapter XX as a more appropriate position in the Code. In these circumstances, we have inserted, in clause 649, a reference to the provisions of Chapter XX relating to detention in the civil prison.

The ***explanation*** to clause 649, having already been reproduced as clause 222C, has here been omitted.

Clause 649A.—We have throughout accepted the principle that acts committed in the course of civil proceedings should not render any person liable to confinement in the criminal prison without the benefit of an independent trial before a Magistrate. In the absence of special provision, however, default in paying a fine imposed by a Civil Court will, by the operation of the General Clauses Act, 1897, section 25, entail imprisonment in accordance with the Indian Penal Code, sections 63 and 70, and the Code of Criminal Procedure, 1898. The view which commends itself to us is that the defaulter should be detained in the civil prison, as nearly as may be, in the same manner and for the like period as if he were detained in execution of a decree. If the fine is imposed for an act in the nature of a contempt, no question of process-fees or diet-money should ordinarily arise; but, where the Court acts at the instance of a private party and the fine is virtually a step in civil litigation, the Judge should, we think, have the power to treat the matter not merely as if the order were a decree but also as if the party were a decree-holder liable to deposit the necessary amount. In such cases, the general provisions relative to release should apply with this important exception, that the prisoner should not be entitled to escape punishment by having recourse to the insolvency provisions.

In examining the provisions of the Bill our attention has been directed to a number of clauses in which power is given to the Court to fix a period or to give or allow time for the performance of any act by a party. On the strength of the facts underlying reported decisions, the clauses have been expanded to render it clear, in some cases, that the period or time may be extended and, in others, that this power of extension may be exercised even though the original period or time has expired. We are of opinion that uniformity in this matter is of the utmost importance because it may not impossibly be argued that the express conferment of these powers in certain cases negatives them by necessary implication in others. It may be contended, for example, that there is no power of extension where a period has been fixed under clauses 93 (*2*), 95, 110 (*2*), 116 (*1*), 263 (*7*), 370, proviso, 380 (*1*) and 605 (*1*). It has been suggested to us that this difficulty could be removed by enacting, in the Miscellaneous Chapter, an express provision to the effect that, "where, by any provision of this Code, a power is given to the Court to fix any period or to give or allow time for the performance of any act by any party to a suit or other proceeding, the Court may, from time to time, extend such period or time, even though the original period or time has expired." If a provision to this effect were enacted, the whole of clauses 54AA and 543C, and so much of clauses 54B, 113, 541 (*2*), proviso, 543BB, proviso, 549 (*3*) and 625A, proviso, as purports to confer a power of extension would be superfluous. On the other hand, it has been represented that, for the

V F

purposes of actual practice, it is inconvenient to have to refer to the Miscellaneous Chapter for provisions which, by reason of their generality, are apt to be overlooked. Should this view be adopted, it would become necessary, at the risk of some repetition, to render each provision complete in itself. We think that the choice between these alternatives might conveniently be considered by the authorities consulted when the Bill is republished for further criticism.

THE SCHEDULES.

THE FIRST SCHEDULE.

At the request of the Government of Bombay, we have substituted a revised schedule in view of the amendments suggested in clauses 4, 6 and 7.

THE SECOND SCHEDULE.

We have omitted the reference to Chapter XLVIA, now re-numbered XLIX, for reasons indicated under clause 622.

THE THIRD SCHEDULE.

Some degree of re-arrangement has been necessitated by the redistribution of Chapter XIX, now re-numbered XX.

Form No. 134.—This certificate, which is no longer required under the precept system, has been omitted with clause 224.

Form No. 144.—This form will no longer be required as the procedure under clause 278, as revised by us, is assimilated to that in suits.

Form No. 151.—In consequence of the amendments introduced into clause 316, the holder of the certificate, who is entitled to the order of the Court under clause 318, will no longer be necessarily the actual purchaser.

Form No. 155.—We have adapted this form for use under clause 379A.

Form No. 158.—The amendments imported into clause 477 render it necessary to harmonize this form with Form No. 154 and to specify the amount upon payment of which the defendant may escape arrest.

Form No. 173.—A "demand of judgment" has been added, on the analogy of the forms for plaints, in view of clause 541A, paragraph (*f*).

THE FOURTH SCHEDULE.

The Court-fees Act, 1870.—The enlarged provisions of clause 111 relating to set-off and counter-claim render it expedient to place written statements raising such pleas on the same footing as plaints for the purposes of court-fees leviable under Schedule I, article 1.

Orders rejecting plaints will, in future, be decrees under clause 2, paragraph (*g*), sub-head (*i*), of the Bill. In these circumstances, the reference in Schedule II, article 11, to an "order rejecting a plaint" is no longer accurate.

Schedule II, article 18, contains an obsolete reference to section 326 of Act VIII of 1859, which has to be read, in view of the interpretation-clause in section 3 of the Code, as relating to section 523. It seems desirable to place applications under clauses 523 and 525 on the same footing in regard to court-fees. This involves a consequential amendment of article 19.

The Indian Limitation Act, 1877.—We have expunged clause 372A from the Bill and incorporated its substance in the Indian Limitation Act, 1877, section 5. In these circumstances, we consider it expedient to supplement section 5 and add corresponding

articles after article 175C, fixing at six months the period of limitation for the applications in question. The only point requiring separate notice is that article 175D will supersede a Calcutta decision [*Lalji Sahai* v. *Walker* (1902), 6 Cal. W. N. lx] in which the period was held to be three years under article 178.

With reference to section 12, we have, in accordance with existing practice, provided that the applicant shall not be entitled to the benefit of any period during which the preparation of a copy has been stopped owing to his default in paying the costs or fees.

In proposing an additional section 16A, we have acted on the view that the purpose of clause 424 is to give notice and to facilitate compromise but not to shorten the period of limitation. Where, for example, the period of limitation is only thirty days, the deduction of two months on account of notice negatives the right of suit; and the matter generally assumes importance from the consideration that the Bill extends the necessity for notice to cases in which the Secretary of State for India in Council or a public officer is made a defendant under clause 32.

Article 12AA, which we propose to insert in the Second Schedule, is a necessary corollary of our proposals under clauses 278 and 335A. Their Lordships of the Privy Council have gone very far in applying the principle [*Malkarjun bin Shidramappa Pasare* v. *Narhari bin Shivappa* (1900), L. R. 27 I. A. 216], in which we would concur, that, where property has been sold by a Court having jurisdiction, the sale should not be treated as a nullity for the purpose of depriving the purchaser of the security afforded to his title by the restriction of the period of limitation from twelve years to one for the institution of suits by adverse claimants. We felt ourselves unable to retain clause 283 which purported to debar a third person from enforcing his claim if, having notice, he failed to have recourse to the remedy provided by clause 278. Where, however, such a claimant is dispossessed by the purchaser, we think that he has notice of a judicial act creating an adverse title in favour of a person who cannot be treated as a mere trespasser.

Articles 163 and 164 have been expanded to cover the decree-holder and judgment-debtor who, for the purposes of execution-proceedings, have been placed by clauses 248F and 248J on the same footing as a plaintiff and defendant respectively.

The proposed article 164A, as inserted in the original Bill, purported to fix the period of limitation at thirty days from the date of executing any process for enforcing the judgment. It has been pointed out that the process in question may relate to matters not involving a breach of the agreement or adjustment between the parties. We propose, therefore, that limitation should run from the execution of process for enforcing the decree in contravention of such agreement or adjustment.

As we have noted under clause 290, we propose to declare that, where a sale is held in contravention of the explicit provisions intended to give publicity to the proposed auction, such sale shall, upon application of the decree-holder or judgment-debtor, be set aside. On the facts assumed, the only point of time, of which the applicant has cognizance, is the date on which the period specified in sub-clause (*1*) expires. We propose, therefore, to make this date the starting point of the period of thirty days' limitation which governs similar applications.

The amendments in articles 166 and 172 follow the revised wording of clauses 311 and 313, respectively.

We have inserted article 172A as a necessary consequence of the addition of *explanation IV* to clause 244. In the absence of such a provision the period would, under article 178, amount to three years [compare, *Bhubon Mohun Pal* v. *Nunda Lal Dey* (1899), I. L. R. 26 Cal. 324], which, in the circumstances, appears to us excessive.

The amendment of article 176 and the insertion of article 176A have been explained under clause 516.

The Transfer of Property Act, 1882. We propose to add references to clause 29 in sections 89 and 90. The sections, as thus altered, will supersede a Calcutta decision [*Kedar Nath Raut* v. *Kali Churn Ram* (1898), I. L. R. 25 Cal. 703, overruling *Ashruf Ali Chowdhry* v. *Net Lal Sahu* (1896), I. L. R. 23 Cal. 682] in the sense of rulings from Allahabad [*Raja Ram Singhji* v. *Chunni Lal* (1897), I. L. R. 19 All. 205 : *Harjas Rai* v. *Rameshar* (1898), I. L. R. 20 All. 354], Bombay [*Krishnaji* v. *Mahadev Vinayak* (1900), I. L. R. 25 Bom. 104] and Madras [*Tirumal Rao* v. *Syed Dastaghiri Miyah* (1898), I. L. R. 22 Mad. 286 : *Mallikarjunadu Setti* v. *Lingamurti Pantulu* (1902), I. L. R. 25 Mad. 244].

3. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India	21st December, 1901.
Fort Saint George Gazette	21st January, 1902.
Bombay Government Gazette	2nd January, 1902.
Calcutta Gazette	25th December, 1901.
United Provinces of Agra and Oudh Government Gazette	28th December, 1901.
Punjab Government Gazette	2nd January, 1902.
Burma Gazette	11th January, 1902.
Central Provinces Gazette	4th January, 1902.
Assam Gazette	4th January, 1902.
Coorg District Gazette	1st February, 1902.
Sind Official Gazette	16th February, 1902.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Marathi	11th October, 1902.
	Gujarati	15th October, 1902.
	Kanarese	18th October, 1902.
Bengal	Bengali	19th August, 1902.
	Hindi	26th August, 1902.
	Uriya	10th July, 1902.
United Provinces of Agra and Oudh	Urdu	5th July, 1902.
Sindh	Sindhi	28th August, 1902.

4. We recommend that the Bill as now amended be republished and sent to the Local Governments for consideration.

T. RALEIGH.

DENZIL IBBETSON.

P. ANANDA CHARLU.

L. P. PUGH.

BIPIN KRISHNA BOSE.

G. C. WHITWORTH. (*See my Note.*)

R. F. RAMPINI. (*See my Note.*)

G. POWER.

SRI RAM. (*See my Note.*)

The 12th March, 1903

Note.

I have signed the Report, accepting it as a correct record of the changes made by the Select Committee. I am, however, not wholly satisfied with the result of our labours and desire to indicate certain points at which the Bill as amended will not, in my opinion, make satisfactory law.

Before passing to specific points I would offer three remarks upon the general character of the proposed legislation. First, I think that too little regard has been paid to settled law and the necessary inconvenience of changes; secondly, that clearness of expression has been too far sacrificed to the object—impossible of complete attainment—of absolute precision of language; and, thirdly, that the system of cross-references from one section to another and of express warnings that one provision is not to be taken as overriding another, has been carried too far. The effect of the last two characteristics is to render particular sections of the Code not readily intelligible in themselves. And there is danger of this further effect, that those who have to administer the law will learn to look always for a precise direction in words instead of imbibing the general intention of the Act and using their own common sense in applying it.

A single clause of the Bill will suffice to illustrate all the three points mentioned above. Clause 13 is a re-statement of the law of *res judicata* in a new form, and a form, to my mind, less scientific and less convenient than that of the present Code. The new clause is difficult reading, and when the force of the words is realized, the reader has to turn to several other clauses of the Bill to gather the whole intention of the statement. The warning that a matter is not to be held the less "finally decided" because a clerical or arithmetical error remained to be corrected in the judgment is an apt illustration of my third objection. No doubt some additions to the section as it stands in the Code had become necessary; but these could, I think, have been more conveniently made without departing from the general form of the section.

Chapter XX.—Of the Execution of Decrees and Orders.—Though I think that many very desirable changes have been made in this Chapter, there are certain factors which I cannot but regard with much concern. There are principally :—

(1) concurrent execution, and

(2) execution by one Court under the direction of another.

The practice of allowing two or more Courts to proceed at the same time with the execution of a decree is almost unknown in this country, nor was there, judging by the reports received, any demand for it. The present proposed enactment seems to have had its origin in the case of *Saroda Prosaud* v. *Lutchmeeput* (10 B. L. R. 214); but it is worthy of note that in that case Sir R. Palmer argued that such concurrent execution as was then allowed was not authorized by the Code, and that the proceedings were irregular. And the instances in which the ruling in this case has been followed are very few. Further, the restrictions and precautions mentioned in that judgment as appropriate are, I think, more stringent than those made in the present Bill.

There are two other objections which apply both to concurrent execution and to execution by one Court under the control of another. These are that it may be an undue hardship on the judgment-debtor to have to defend his property at the same time in places possibly as far distant as Madras and the Panjab; and that it will usually involve him in extra expense in having to provide pleaders in different places at the same time.

These conditions will be in great contrast with the present practice, under which there is only one Court at one time carrying out the execution of a decree.

And to the provision allowing one Court to maintain control over the execution while other Courts under its precepts carry out the execution, there is the further grave objection that it will lead to conflict between the Courts. It will not always be easy to decide whether a particular question should be determined by the Court receiving a precept or should be referred by it to the Court which passed the decree, and differences of opinion are sure to arise.

Again, neither as to concurrent execution nor as to execution by precept can any sound analogy be taken, I think, from English practice. For in England distances are short, the language is one only, and the lowest Courts are of comparatively high calibre, and therefore less liable to be jealous one of another.

While fully concurring in the view that it is expedient to make special provisions for the maintenance of agriculturists upon their land from season to season, I think clause 269B goes too far in permitting the Collector, or any subordinate of his deputed by him, to determine what proportion of the crop it may be necessary to exempt from attachment.

In the present Code, as also in the Bill as referred to the Committee, there is a marked distinction between the procedure to be adopted (1) in the case of claims to, and objections to attachment of, attached property (section 278), and (2) in the case of obstruction by a claimant in good faith, other than the judgment-debtor (section 331). The two provisions fall under different sub-heads "*F.—Of attachment of property*" and "*H.—Of Resistance to execution.*" But this distinction has been in one essential effaced, and I think a sound principle departed from, by now applying part of the procedure of section 331 of

the Code to that of section 278, and permitting a mere "claimant" to property attached to have his "claim" registered as a suit. Not only is the claim registered as a suit (without regular institution by plaint), but the claimant may, under clause 278 as now amended be put into the favourable position of defendant in stead of having to prove his title and the Court may find it a very difficult task to determine whether the decree-holder or the claimant should be made plaintiff; for they are both of them claimants asking for action to be taken by the Court, and their two claims may quite conceivably be *primâ facie* on a par. Under the present law there is no such anomaly or difficulty, a claim being allowed to be registered as a suit only when it is proposed in execution proceedings to take property away from a person claiming in good faith to be in possession of it.

Chapter XXXIV.—Suits by or against Firms, &c.—I should have preferred to limit the application of this Chapter to the Presidency-towns and Karachi and Rangoon, or to such places as the Local Governments might by notification apply it.

Chapter XXXIX.—Reference to Arbitration.—I regret that some provision has not been made to enable a Court to some extent to control extravagance on the part of an arbitrator. Such power is retained to the arbitrator under the English law and also under the Indian Arbitration Act. But the Committee appear to think that if allowed under the Code it would destroy the finality, and therefore also the utility, of arbitration. I do not share that opinion. I do not think Courts would be inclined to interfere unnecessarily with the discretion of an arbitrator. I only wish to enable them to restrain outrageous or clearly inequitable decisions. Many instances of such decisions—decisions which, under the present law, Courts are obliged to accept without question, contrary to their own sense of justice—have been put before us in the reports upon the Bill. It should, I think, be considered that, as a Court is made use of to give effect to arbitration, so it should be allowed some discretion, however limited, and not be treated as a mere registering machine.

Chapter XLIV.—Of Appeals from Appellate Decrees.—I think the Code ought itself to determine, as in the past it always has determined, when a second appeal should be allowed; and should not, as now proposed in clause 584 (*3*), ever leave such a question to be settled by the executive.

I am of opinion also that the nature of a suit and not its money value should be the test applied.

Further, I think regard should be had to the character of the decision in first appeal, and a second appeal be allowed (even on a question of fact alone) when that decision is a reversal of the first decree. Much may be said for restricting appeals generally, but when one appeal has been allowed and the two Courts have come to different conclusions, there is, I think, good ground for permitting resort to a third Court.

G. C. WHITWORTH.

The 12th March, 1903.

Note.

I have signed the above report, subject to the following observations in regard to certain salient points in the Bill to which I feel bound to take exception.

(1) There is in the Bill no definition of the expression "rule of law," which occurs in clauses 2 (*g*), 4A, 11, 14 (*1*) (*b*), 14 (*1*) (*e*), 54 (*2*) (*c*), 193A, 543A (*2*) (*c*) and 592. I consider that there ought to be a definition of this phrase, which is a novel one, and which appears to me to be vague and indefinite. It has been suggested that the Courts will readily understand it as including (*a*) enactments of the Legislature, (*b*) rules framed under enactments, (*c*) rules established by decisions of the Courts, and (*d*) rules of custom; and that it would be difficult and dangerous to draw up an exhaustive definition of the expression. It seems to me, however, that the Courts will not readily apprehend what is meant by "rule of law." It should be remembered that the Courts of this country are presided over by Judges, many of whom are inexperienced and without any high legal training. Some of the Courts are even presided over by executive officers who have little legal knowledge and who have had no legal training at all. Hence, I feel certain that this expression will give rise to misapprehension and to diverse interpretations, varying according to the ideas and qualifications of individual officers. The omission to define "rule of law", therefore, seems to me to be a serious defect in the Bill. Their Lordships of the Privy Council in a recent case (*Gokul Mandar* v. *Padmanand Singh*, I. L. R., 29 Cal., 707) have said: "The essence of a Code is to be exhaustive on the matters in respect of which it declares the law," and on this principle the omission is not one which should be allowed to remain. It may be difficult to frame an appropriate definition of the phrase; but, if it is introduced into the Code of Civil Procedure, some attempt should be made at least to explain it. We should not leave the Courts without some guidance on the point or throw on them the burden of a duty which the Legislature should itself discharge. If it be dangerous to define it exhaustively, the usual legislative device of describing it as "including" what it is considered to mean, may be adopted; so that nothing will be excluded which, it may afterwards be seen, properly comes within the expression.

(2) I regret that I cannot approve of the changes proposed to be introduced into Chapter V, "Of the frame of the suit". Hitherto the principle underlying this Chapter

of the Code has been that there shall be one suit and one trial in respect of one cause of action, and that, except in special specified cases, in which it may be convenient and proper to unite the trial of claims founded on several causes of action, the joinder in one suit of claims founded on several distinct causes of action shall not be allowed. In pursuance of this principle, sections 44 and 45 of the present Code enumerate the cases in which several causes of action may be joined in one suit, and sections 45, 46 and 47 prescribe when even in these cases separate trials may be ordered, and the procedure by which an order to this effect may be obtained. All this is now practically changed. According to clause 44 of the Bill (1) any number of plaintiffs may in one suit unite their claims against apparently any number of defendants in respect of several properties, provided they base their claims to relief (which need not be joint but may be several claims) on a common ground, and (2) any number of plaintiffs may unite in one suit several causes of action in which they are jointly interested against the same defendant or the same defendants jointly, whether they base their claims to relief on a common ground or not. An illustration is appended to clause 44, sub-clause (*1*), with the object of overruling two decisions of the High Court of Allahabad (*Rahim Bakhsh* v. *Amiran Bibi*, I. L. R. 18 All. 219 and *Salima Bibi* v. *Sheikh Muhammad*, I. L. R. 18 All. 131) in which suits in which two distinct causes of action were united were held to be bad for misjoinder. The next clause 46 gives the Court power either on its own motion or on the application of the defendant at or before the settlement of the issues, or if the parties agree at any subsequent stage of the suit, to order separate trials; but no principle is laid down, as in the present Code, by which a Court is to be guided in passing such an order. Clause 47, however, follows the lines of section 44 of the present Code, and prohibits the joinder of all except specified claims with a claim for the recovery of immoveable property.

Now, these changes do not seem to me to be judicious. They tend, in my opinion, to encourage, rather than to discourage, the joinder of causes of action, and they will have the effect, I fear, of making the trial of civil suits even more complicated and protracted than they are at present. The result of all practical judicial experience would seem to me to be that the simpler a case is made, the narrower the issue, the smaller the quantity of evidence that has to be adduced in it, he easier it is to decide it correctly; while the more complicated it is made, the more numerous the issues that necessarily arise in it, the greater the mass of evidence that has to be considered, the more difficult it is to dispose of it, and the greater the danger of deciding it wrongly. This principle has been recognized by the framers of the Code of Criminal Procedure, 1898, who have provided in section 233 of that Code that there shall be a separate trial for each offence an accused may have committed, subject to the exception (see section 234) that he may be tried at one trial for three offences of the same kind, if committed within the space of one year. I accordingly very much deprecate the departure from this principle in the present Bill. Under the clauses as they are now framed even more disconnected causes of action than those referred to in the new illustration might be united in one suit. Thus, several reversioners might in one suit sue the persons in possession of different portions of the estate of a deceased Hindu, which were alienated by his widow at different times for different reasons. The joinder of such distinct causes of action in one suit would make the proper decision of it most difficult, and there would be no real saving of expense to the parties, which is presumably what is aimed at by the amendments. I further deprecate the omission from clause 46 of any allusion to the principle which should guide Courts in ordering separate trials and of the procedure prescribed by sections 46 and 47 of the Code for an application to confine the suit to such of the causes of action as may be conveniently tried in it, and for the disposal of such an application.

(3) I do not consider that the way in which the provisions of section 111 of the present Code have been extended in the revised Bill is desirable. It may be admitted that the provisions of the present section are too narrow. They provide (1) that any set-off claimed by a defendant must be for an ascertained sum of money legally recoverable by him from the plaintiff, and (2) that in the claim of the defendant against the plaintiff both parties fill the same character as they fill in the plaintiff's suit. The provisions of the section have, however, been widened by case-law so as to include cross demands arising out of the same transaction or when they are so connected in their nature and circumstances as to make it inequitable that the plaintiff should recover and the defendant be driven to a cross suit [see *Bhagbat Panda* v. *Bamdeb Panda*, I. L. R. 11 Cal. 557]. But the provisions of clause 111 of the Bill go far beyond this. They make a most startling change in the law. They allow of ***any claim*** which can conveniently be disposed of in the suit being raised as a set-off or counter-claim, so that a claim of any kind, however unconnected with the plaintiff's claim, whether for an ascertained or an unascertained sum of money of any amount, and whether arising within or without the local limits of the jurisdiction of the Court within which the plaintiff's suit is brought, may be raised as a set-off or counter-claim. Thus, in a suit on an ordinary bond, there may be a claim by way of set-off for the recovery of immoveable property, or a claim founded on some unsettled account, or in a suit to prove or disprove a right of occupancy, there may be a counter-claim for Rs. 10,000 for damages for wrongful confinement, or for the possession of immoveable property. Then, the clause goes on to prescribe a most elaborate procedure for the disposal of the suit, when the set-off or counter-claim is alleged to have arisen

beyond the limits of the Court's jurisdiction, from which it will be seen that such set-off or counter-claim may have arisen even in a different province from that in which the plaintiff's cause of action has accrued, provided both provinces are within the jurisdiction of the same High Court. Even if the suit is stayed, withdrawn, dismissed or abated, the set-off or counter-claim may be proceeded with. Under the proposed system a plaintiff suing in Puri in Orissa on a bond for Rs. 500 may be met with a counter-claim for Rs. 10,000 for damages for assault alleged to have been committed in the district of Sibsagar in Assam. The case will have then to be reported to the High Court and to be transferred for trial to the district of Sibsagar, and even if the plaintiff prefers in these circumstances to withdraw his suit on the bond, the case against him may go on, and he may be obliged to journey to Sibsagar to meet it. It appears to me that the provisions of clause 111 of the present Bill go far beyond the exigencies of litigation at the present time in this country. No demand has been made, and no case established, for such an extension of the provisions of the present section as now interpreted by the Courts. It may be that the provisions of this clause of the Bill are in accordance with the English law on the subject, but the legal systems and the means of communication in the two countries are different, while England is not covered with the same elaborate net work of Courts as India is; so that what may be convenient and appropriate there may be very much the reverse in this country. The proposed system will, I feel sure, tend to encourage the raising of false and vexatious counter-claims, intended to complicate and protract perfectly simple and honest suits, and will be used, I fear, in such a way as to defeat the ends of justice. The provision that a Court may refuse leave to the defendant to avail himself of any set-off or counter-claim which cannot be conveniently disposed of in the pending suit will not afford any effective remedy for this evil; for it will always be a matter of difficulty to decide what is and what is not convenient. What may appear convenient to one Court may not be considered convenient by another. As a matter of fact, it would seem to me that it will always be inconvenient to try any counter-claim in a suit, unless the two claims can be decided on the same evidence. But, in any case, the degree of inconvenience will be a variable quantity, depending upon the number of issues which will have to be decided in the suit and counter-claim, and the quantity of evidence that will have to be recorded to enable them to be decided. The procedure which it is proposed to prescribe for the trial of suits in which counter-claims which are beyond the jurisdiction of the Court in which the suit was instituted are raised, will be another cause of delay and inconvenience. Correspondence will have to pass between the Court in which the suit has been instituted and the Court to which the case is referred. The District Court and the High Court will certainly be asked, and may desire, before passing an order referring the case for trial to a competent Court, to hear the parties or their pleaders, and the question of the convenience of trying the counter-claim will doubtless be raised and re-argued before them. I foresee a still further way in which the terms of the proposed clause 111 will be abused and that is that when a plaintiff institutes a suit triable under a summary procedure, *e. g.*, when he institutes a claim in a Small Cause Court or one of a Small Cause Court nature in a regular Court, the defendant will be certain to raise a plea of set-off or counter-claim, which is beyond the jurisdiction of the Small Cause Court, or which is of a nature triable only under the regular procedure. The case may then have to be referred to the District Court, which will have to transfer it to a regular Court, or to a Court which will try it as a regular suit, and so the summary suit will be converted into a regular suit and the defendant will gain a right of appeal, and perhaps of second appeal to which he would not be otherwise entitled. For these reasons, I consider that the proposed scheme permitting the raising in a suit of *any claim* by way of set-off or counter-claim without any restriction, except that of convenience, which depends entirely on the exercise of the Court's discretion, cannot work well, but must inevitably cause delay, complication and difficulty in the trial of suits.

(4) I strongly disapprove of the change which it is proposed to make in the law by clause 206A. by sub-clause (*4*) of which clause an appeal is given against any appealable decree amended under this clause. The corresponding section (206) of the present Code provides for no such appeal. It is a section intended to allow of the amendment merely of an accidental variance between the decree and the judgment and of the correction of any clerical or arithmetical mistake in the decree. It is not intended to allow of the amendment of a mistake in the decree on any material point, for which remedies are to be found in the sections relating to appeals and reviews. Hence, it has been held that an amendment of a decree under this section can be made at any time; and it has been further decided that no appeal lies from an amendment under this section for two reasons, *viz.*, (*1*) that the order amending the decree is not a decree, and (2) that the decree which has been amended is not a new decree, but is substantially the same decree, the amendment being on an unimportant point. Now, it is proposed to alter all this. By sub-clause (*3*) of clause 206A, it is expressly laid down that a decree may be amended at any time, and that no period of limitation will apply thereto, and sub-clause (*4*) provides that an appeal shall lie in respect of so much of any appealable decree as is amended under this section and that the date of the amendment shall be the date of the decree. There are two provisos to the clause, which preclude the amendment of a decree against which an appeal has been preferred or of a decree which has been executed. But, in the former case, the decree of the Appellate Court may be amended. These provisions will make, in my opinion, a most ill-advised and disastrous

change in the law. The result will be the introduction of a double system of review, one under the provisions of the chapter relating to reviews, and one under clause 206A, which will be the more popular, as it will be subject to absolutely no limitation as regards time. There will in future be no finality about decrees. Decrees which have not been executed may be amended, if clause 206A of the Bill becomes law, long after—it may be 50 or 100 years after—they have been passed, and when all the parties to it are dead. If the decree is then amended in any particular, however insignificant, an appeal will lie, and as time will run from the date of the amendment, there may be endless appeals from the decree, one from the original decree before it is amended, and then as many more as there are amendments of it. What is worse is that there may be a fresh starting point for execution [see *Kali Prasanno Basu Rai* v. *Lal Mohan Guha Rai*, I. L. R. 25 Cal. 258.] Furthermore, there is no restriction, as in the case of reviews, as to the Judge to whom application must be made; so that decrees may be amended under clause 206A, not only by the Judges who passed them, but by their successors, and by the successors of their successors. In my opinion no such change in the law is required. There has been no complaint made against, and no inconvenience shown to result from, the provisions of section 206 of the present Code. The amendment is said to be necessary to meet a case of hardship, similar to that reported in *Narayanasami* v. *Natesa*, I. L. R., 16 Mad. 424. In this case there had been an error in the plaint in the description of the boundaries of the plot of land, which was the subject of the suit. Naturally, a similar error occurred in the decree. The Court of First Instance corrected the error under the provisions of section 206, which it should not have done, for the plaintiff's remedy was by review. Mr. Justice Parker set aside the Lower Court's order on revision, in which he was technically right, but in a Letters Patent appeal his order was reversed, and that of the Court of First Instance was restored, as being right on the merits, though wrong in form. But this case, to my mind, affords no argument for making any change in the law. The plaintiff, who was entirely to blame for the mistake which occurred, had a sufficient remedy, if he had chosen to have recourse to it. He invited the Court of First Instance to exercise its powers under the wrong section, and hence the resulting appeals. If such a case occurs again, the plaintiff has only to ask for a review of judgment, and he will get it and there will probably be no appeals. The amendment which the Select Committee have made in the section will afford him no relief, for an error in the decree which arises from a mistake in the plaint cannot be held to be at variance with the judgment, or a verbal or arithmetical error or an accidental defect in the decree not affecting a material part of it, such as can properly be corrected or remedied under the terms of clause 206A.

Another case has been mentioned as one likely to occur in the Central Provinces. A plaintiff, it is said, may sue for possession of a field, described in the survey proceedings as $\frac{100A}{3}$. He may get a decree, and by an accidental error in drawing up the formal decree, the field is described as $\frac{100}{3}$, which, as a matter of fact, is not the subject of the dispute in the suit but is the field of a third person. In these circumstances, it is said, the defendant, knowing that the decree which has been given against him is ostensibly for a field not his, will be justified in refraining from appealing, and when the plaintiff discovers the accidental omission of the letter A in the decree, and has this error corrected, it will only be fair to give the defendant an opportunity of appealing against the decree on the merits. My reply is that this appears to me to be an illustration of the way in which, if sub-clauses (*3*) and (*4*) of clause 206A become law, the clause will be abused. It seems to me that in the case described above, the defendant can have been under no misapprehension as to the field for which the Court intended to give the plaintiff a decree. He must have well known that what the plaintiff sued for was the field $\frac{100A}{3}$, which was in his (the defendant's) possession and not field $\frac{100}{3}$, which was in the possession of somebody else. In the case put the mistake occurred only in the decree, and the defendant must, therefore, have fully understood that the field to which the decree really related was his field, No. $\frac{100A}{3}$, though the letter A may have been omitted. If he wished to dispute the correctness of this decree, he should have appealed at once, and was not justified in abstaining from appealing merely owing to a clerical mistake for which, as both parties' pleaders have now to sign the decree as an admission of its correctness, [clause 205, sub-clause (*3*)], his pleader would be as much to blame as the plaintiff's pleader. If he did not choose to appeal within the time allowed him by law for doing so, he should not be permitted to do so afterwards, when the merely accidental mistake not affecting the decree in any material point is corrected. For these reasons I consider that the giving of a right of appeal against the amended decree is unnecessary and will have a disastrous result, as it will destroy the finality of decrees, and allow of their being altered at any future time and that without the restriction of the conditions now imposed by the law on the preferring of appeals and applications for review, and will further give a fresh starting point for their execution.

What is aimed at in the amendments introduced in this clause is no doubt the enlargement of the right of review. It may be that the right of review, and in particular the period allowed for an application of this nature, is too limited. But, if so, the remedy lies in an enlargement of the right of review, and the prescription of a longer period of

limitation for such applications and not in the introduction of two concurrent procedures for reviewing decrees.

(5) I very strongly object to the system of executing decrees by ***precepts***, which it is proposed to introduce by clauses 223, 223A, 223B, 244A and 238B of the Bill. Under the present system a decree-holder wishing to have his decree executed, applies to the Court which passed the decree, and such Court may either execute it itself or may transfer it for execution to another Court, and it adopts this latter course only when the judgment-debtor resides, carries on business or works for gain within the local limits of the jurisdiction of such other Court, has not sufficient property within the jurisdiction of the Court which passed the decree to satisfy it, or the decree directs the sale of property situate beyond these limits. When a decree is once transferred for execution to another Court, that Court has practically seizin of the execution proceeding and carries it on until execution is obtained, or the property of the judgment-debtor within its jurisdiction is exhausted. The process may then be repeated, and the decree transferred for execution to another Court. Concurrent execution is practically unknown. There is no provision in the Code expressly authorizing it: the spirit of section 223 (*b*) is against it; and though there is an old decision of the Privy Council [*Saroda Prasad Mullick* v. *Luchmeeput Singh*, 14 Moo. I. A. 529] which seems to hold that concurrent execution is permissible, yet it is pointed out that it might be right to refuse it and that, if allowed, it would "be in many cases, proper to impose terms on the decree-holders that they should not proceed to sale under all the attachments at once." It is now proposed to make radical changes on all these points. A decree-holder, when he wishes to have his decree executed, is to apply to the Court which passed the decree, and that Court is not only to execute the decree itself, but may at the same time issue precepts to any other Court or Courts, whether situated in the same or in another province, or in other provinces, directing the simultaneous execution of the decree by the arrest of the judgment-debtor, or the attachment and sale of his property or in any other mode in which a decree may be enforced. The conduct of the execution is to remain in the hands of the Court which passed the decree, and it may from time to time give such directions as it thinks fit, for the execution of the decree to the Court to which the precept is issued, which is not at liberty to entertain any objection regarding (*a*) the legality or propriety of the precept or of any directions given for its execution or (*b*) the right of the person shown in the precept as the decree-holder to execute the decree. If any such objection is raised before it, unless it considers it to be groundless and vexatious, it shall stay execution and refer the matter for decision to the Court which passed the decree. It has, however, jurisdiction to entertain objections of any other nature. This scheme is understood to have been devised for the purpose of facilitating the execution of decrees; but it would appear to me that this advantage, if gained, which I consider it is unlikely that it will be, will be more than counterbalanced by the probable ruin of many honest and solvent judgment-debtors, who under it will be completely crushed. Under this system execution may proceed simultaneously against a judgment-debtor in several districts and even in several provinces; his property may be attached and sold in several places without any restriction or safe-guard that not more than what is necessary to satisfy the decree against him will be dealt with. It is said in the report of the Select Committee that "excessive realization, which the" (*i.e.*, the present) "system was primarily intended to prevent can be quite as effectively obviated by reserving the power of ordering attachment and sale, as we suggest, to the Court which passed the decree, and which will not issue a precept for either of these purposes, unless looking to the amount of assets obtained from all sources, it considers such action to be necessary." In another passage it is added: "The mechanical guarantee which we propose against excessive realization is that the Court which passed the decree and is responsible for its execution must, in each case, separately decide whether property which has been attached ought also to be sold to make up any deficiency still outstanding." But there are no clauses in the Bill embodying these principles. There is no clause instructing the Court to which application for the issue of a precept is made that it should use its discretion in granting or refusing simultaneous execution, or that it should not proceed to sell the judgment-debtor's property, unless it considers that such action is necessary. The provision that a Court must record its reasons before issuing precepts to two or more Courts would seem to be no effective safe guard, for a Court, provided it records its reasons, may issue any precepts it thinks fit. No form of precept is prescribed, so that a Court issuing a precept might, provided it records its reasons, in one precept order both the attachment and sale of a judgment-debtor's property, and there is the greatest danger of its being deceived as to the necessity for the issue of precepts for simultaneous execution, seeing that these precepts are apparently to be issued *ex parte*. If execution is taken out against the judgment-debtor within a year of the passing of the decree against him, no notice will ordinarily be given him of the application for execution, and the proceedings preliminary to the issue of precepts may be entirely *ex parte*. Even if execution is taken out more than a year after the passing of the decree, execution may, for reasons to be recorded, be taken out without notice [clause 248 (2)]: but even if notice of the execution be given to the judgment-debtor, the precept may apparently be issued without notice. It is true that from the service of notices of attachment and proclamations of the sale of the property, the judgment-debtor may come to learn of the issue of the precepts; but if they are enforced simultaneously as

they may be, and as it is apparently intended that, if considered necessary by the Court, they should be, how is he to be in attendance in the different places (it may be in the different provinces) where precepts are being executed, at one and the same time? It has been said he may apply for adjournments, and they will be easily obtained. But they may not be granted, and, in any case, while he is applying for an adjournment in one place, his property may be being sold in another. The proposed new clauses, moreover, provide no means of redress, if more property is sold than is necessary to satisfy the decree, and even if the Courts in the exercise of their inherent powers make over to him the surplus proceeds of the sales, they cannot give him back his property itself, if sold to *bonâ fide* purchasers other than the decree-holder. Further, whether or not his property is unnecessarily sold off, he may have to make long journeys between distant places and provinces. He may have to apply first to the Courts to which the precepts are issued for the stay of execution and then to proceed to the Court which issued the precepts to press his objections to the legality and propriety of the precepts or of the directions given for their enforcement or as to the right of the decree-holder to execute the decree. Then, he may have to go back to the Court to which the precepts are issued to press his other objections to their enforcement. Similarly, the decree-holder, too, may have to journey backwards and forwards between the Courts to oppose stay of execution and to refute the objections raised by the judgment-debtor. The system will, therefore, probably not afford such a speedy means of execution, as it is anticipated it will. In the Select Committee's Report it is explained that a Court to which a precept is issued need not execute it itself, but may, under clause 25 of the Bill, transfer it to another Court for execution. This is somewhat inconsistent with the principle that the Court which passed the decree is to retain control of the execution, and that the Court to which the precept is issued is to enforce it itself under the directions of the Court which passed the decree. This would also seem to be reverting to the present system of transferring decrees for execution. Thirdly, it would seem to be creating an additional cause of expense and delay to the parties for it introduces a third Court to which they may have to have recourse in following the course of the execution. Another objection to the scheme, at least from the judgment-debtor's point of view, is that it increases the facilities for his arrest. It is true that section 245B of the Code, which was introduced by the Debtors Act, VI of 1888, and which gives a Court a discretionary power, instead of at once ordering the issue of a warrant of arrest to call upon a judgment-debtor to show cause why he should not be arrested, is still retained in the Bill, and it may be that it is intended that the clause relating to the issue of precepts for the arrest of a judgment-debtor should be read subject to the provisions of this section. But this is nowhere clearly laid down. Then, at present a warrant can only be issued for the arrest of a judgment-debtor, if he resides, carries on business, or works for gain within the jurisdiction of the Court by which the warrant is executed. In future, precepts may be issued for his arrest anywhere, and the Court to which they are issued cannot in any way question the legality or propriety of their issue.

Other objections to the scheme are that (*1*) under the present system, certain papers must accompany the order transferring a decree for execution, so that the Court executing a decree can judge whether it is doing right or wrong, and this provision is now abrogated; (*2*) there is no clause allowing a precept once issued to be withdrawn; (*3*) under the proposed system a Court of the lowest grade may issue a precept to one of the highest grade and that Court must proceed to enforce it, either itself or by a Court subordinate to it, however it may disapprove of it, and though it may have power to cancel it in appeal; and (4) under the proposed system appeals may very much increase. Every order passed on an objection preferred to a Court issuing a precept will be an order under clause 244, and, therefore, subject to both a first and a second appeal. Similarly, every order passed on an objection preferred to a Court to which a precept is issued will be an order under clause 244, and, consequently, subject to two appeals. If execution is carried on concurrently in different provinces, there may be several second appeals relating to the same execution being simultaneously prosecuted in several High Courts. Even if a decree is not concurrently executed in more places than one, still the opportunities for preferring first and second appeals will be greater under the proposed system than under the present one, and this cannot fail both to retard execution and to increase the expenses of the parties.

I feel certain that such a system will be fraught with difficulties and troubles from which the present system is free. The present system is somewhat cumbrous, but this drawback was remedied in the Bill of last year by a clause [clause 228, sub-clause (*4*)] providing that a Court to which a decree has been transferred for execution may, after executing it as far as it can, transfer it directly to a third Court, within the jurisdiction of which the judgment-debtor may have property, without referring it back to the Court, which passed it, which causes delay. There has been no demand for such a one-sided system as it is now proposed to introduce. It may be just to attach at once all the property of a judgment-debtor, wherever it may be; but to permit the simultaneous sale of his property in more places than one without instructing the Courts as to when this may, and as to when this should not, be done, and so to incur the danger of realising much more than is necessary to satisfy the decree is a system for which it appears to me there is no justification. Further, I feel sure that the system will not work well, and that, instead of facilitating, it will tend rather to retard the execution of decrees.

The journeying backwards and forwards from one Court, and it may be from one province, to another, in order to attach and sell the property of the judgment-debtor and to meet his objections, the practical suspension of business in the Court to which the precept is issued during the interval that must necessarily elapse between its asking for, and its receiving, instructions from, the Court which passed the decree, and the impossibility of the Court which issued the precept giving instructions immediately to the Court to which the precept is issued without hearing the parties, and the more numerous appeals and second appeals that will be possible, will certainly protract the proceedings. Under the present system the Court to which a decree is transferred for execution, once seized of the case, can proceed expeditiously, for its powers in execution are the same as those of the Court which passed the decree. But I believe that execution under the precept system will proceed far more slowly than formerly. If a precept is issued for the attachment of property, the Court to which the precept is issued can only attach and should await further instructions. If a precept is then issued for the sale of the property, it proceeds to sell and must forward the proceeds to the Court which passed the decree. If, however, nothing is realized by the sale, it must await further instructions again. It can do nothing itself. On the other hand, under the present system, if there are surplus sale proceeds of property of the judgment-debtor realized in another execution in the Court to which the decree is transferred, such Court can at once give the decree-holder rateable distribution of these sale proceeds without the instructions of the Court which passed the decree. This cannot be done in future, and the new system, if it comes into force will, I am sure, involve so much correspondence and communication between Courts, so many journeyings backwards and forwards of both decree-holder and judgment-debtor, with all the attendant expenses and the instructing and feeing of pleaders in all the different Courts, that the position of both the decree-holder and judgment-debtor will be much worse than under the present system, which, if slow, can in this respect be improved, and is at all events sure and fair to both parties.

(6) In the Bill as originally framed it was proposed to enact in clause 257A that agreements relating to the satisfaction of a judgment debt should be illegal, unless made with the sanction of the Court which passed the decree. In the Statement of Objects and Reasons it was explained that it was considered advisable to supersede the interpretation sometimes put upon the word "void," which occurs in the corresponding section of the present Code, as meaning that unsanctioned agreements are not in their nature illegal, but only incapable of being enforced by way of execution. Now, it is proposed to enact in the Bill exactly the contrary of what, according to the Statement of Objects and Reasons, was then considered advisable, and to preclude only a Court executing a decree from recognizing or giving effect to unsanctioned agreements for the satisfaction of a judgment-debt,—in other words, to allow of such agreements being proved in all proceedings other than execution cases. The idea underlying the provisions of the present law on this point is that once a Court has passed a decree, the parties should not be allowed to alter it or satisfy it by a payment in excess of the amount decreed without the sanction of the Court. The object of this provision is to protect the judgment-debtor from any undue pressure or unfairness on the part of the decree-holder. With this laudable object section 257 was framed as it is at present in the Code, and the provisions of the Bill of last year were intended to prevent attempts to evade the section so as to defeat the policy of the Legislature. Now, it is proposed to depart from this wise policy and to encourage evasions of the law which cannot fail to be detrimental to the interests of judgment-debtors as a body. The terms of sub-clause (*1*) of clause 257A would seem to me to be entirely inconsistent with the policy of the Legislature embodied in the other sub-clauses of the clause. The logical conclusion of the new policy would appear to be to allow even the Court executing a decree to recognize such agreements,—in short, entirely to abrogate clause 257A.

(7) A very great alteration is proposed to be made, in section 278, which prescribes the procedure for the investigation of claims to attached property. The present procedure is that when any claim is made to property which has been attached in execution of a decree, the claim is summarily enquired into. The claim is either allowed or disallowed, and the execution proceeds. The person against whom the order in the claim case is made is at liberty to institute a suit within a year to establish his right to the property he lays claim to, but subject to the result of this suit, the order in the summary claim case is final (section 283). This procedure works well. Any claim preferred under this section is promptly enquired into and disposed of In most cases no subsequent regular suit is brought, but in any case the execution is proceeded with and there is no necessity to keep it pending until the termination of the suit. It is proposed in future to radically change this procedure. In future, there will be no summary enquiry at all. Whenever a claim to attached property or an objection to its attachment is made, the Court is to register the claim or objection as a suit and to proceed to try it, as if a suit for the property had been instituted, and every order under this section is to have the same force, and be subject to the same conditions as to appeal and otherwise, as a decree. Section 283, which makes the summary order final and provides for its propriety being called in question only in a suit, is to be omitted. The advantage of this plan, it is said, is that it does away with the present dual procedure of a summary enquiry and a sub-

sequent suit, and settles all questions relating to the attached property once and for all. But the present system, I venture to say, has hitherto worked well, and has tended to the expeditious disposal of execution proceedings. The advantage to be gained by the abolition of the dual system, will, in my opinion, be more than counterbalanced by the great delay in the disposal of execution cases that must inevitably result. Every order under the new clause is to be a decree and consequently to be subject to a double appeal Hence any execution case in which a claim to attached property is preferred must, in future, remain pending for years; for the execution cannot be proceeded with pending the double appeal. In my opinion, however, there is no necessity for the introduction of any such system. The great majority of claimants at present remain satisfied with the result of the summary enquiry. The proportion of regular suits brought subsequently is very small, and the proportion of cases in which the decisions in the summary enquiries are set aside, still less. If enquiry were made and statistics collected on this point, I am sure it would be clearly established that there is not the slightest necessity for disturbing the present system or for changing it for one which must inevitably cause the greatest delay in the disposal of all execution cases in which claims are preferred. Further, no reason whatever is assigned for remitting the Court-fee duty now leviable in all regular suits brought to establish a claimant's rights to attached property.

A still further change is proposed to be made in the present section. Hitherto, the operation of the section has been confined to claims to attached property. In future, the procedure prescribed by the section is to be applicable to any property which has not been attached, but which is declared by a decree to be liable to be sold in satisfaction thereof, in other words, to mortgage-decrees. In the Bill, as it was at first drafted, the provisions of the clause were still more objectionable. They explicitly provided for the attachment of property forming the subject of mortgage-decrees, an antiquated and obsolete practice discouraged by the framers of the Transfer of Property Act (*vide* section 99 of that Act), and absolutely forbidden by the Bombay High Court. The words "including a decree for the enforcement of a mortgage", which at first appeared in the clause have now been omitted, but other words have been inserted which give any person claiming an interest in property, the subject of a mortgage-decree, the right of coming forward and raising a claim or objection under the section. So, in future, any stranger to a mortgage suit who is absolutely unaffected by the decree may prefer a claim or object to the sale about to take place, and his claim is to be tried as a suit subject to the payment of no *ad valorem* Court-fee duty. This procedure seems to me to be most undesirable. It is contrary to the policy of the Transfer of Property Act, by section 85 of which it is provided that all parties having an interest in the property comprised in a mortgage must be joined as parties to any suit relating to it. If such persons are not made parties to the suit, they are unaffected by the decree or by any subsequent proceeding in execution until their possession in the property, if they are in possession of it, is attempted to be disturbed. There is, therefore, no necessity for their coming forward until an attempt to take possession of the property is made, and the provisions of sections 328 to 335 of the Code, relating to "resistance to execution" afford them ample opportunities of their having their rights enquired into, and of their obtaining redress, if necessary, at this stage of the execution. These are the sections, it has been pointed out in the leading case of *Deefholts* v. *Peters* (I. L. R. 14 Cal. 631), of which they should avail themselves, and they are not entitled to come forward at any earlier stage. This exposition of the law has been accepted all over India (*vide Himatram* v. *Khushal Jethiram Gujar*, I. L. R. 18 Bom. 98; *Sanwal Das* v. *Bismillah Begam*, I. L. R. 19 All. 480; and *Krishnan* v. *Chadayan Kutti*, I. L. R. 17 Mad. 17). But it is said that it is an advantage that persons having claims to property declared liable to sale, should be able to come forward and raise their objections at an earlier stage than they can at present. But what advantage is it that people should be able to come forward and litigate before their rights are affected? The position of parties to a decree in which property has been declared liable to be sold would seem to be analogous to that under the Bengal Tenancy Act of a landlord and the tenant of a tenure or holding. In the former case there is an express contract—in the latter, a statutory provision—that the property shall be liable for the debt or rent. But by section 170 of the Bengal Tenancy Act, which is one of the most recent important Acts of the Legislature, the provisions of sections 278 to 283 of the Code of Civil Procedure do not apply to a tenure or holding attached in execution of a decree for rent. Any person having a claim to such a tenure or holding must consequently wait till the purchaser attempts to take possession before he can prefer any objection. Then, why should the same rule not prevail, as hitherto, in the case of property declared by a decree to be liable to sale? Further, I would point out that there is a reason why there should be a difference in the procedure with regard to the preferring of claims to property attached in execution of money decrees and to property declared by a decree to be liable to sale. In the case of the attachment of property in execution of a money-decree, there is no property definitely pledged as security for the debt. The decree-holder has to find out where the judgment-debtor's property is, as best he can. It is to the interest of the judgment-debtor to conceal his property from the decree-holder; so the decree-holder in attaching property may easily make mistakes and attach the wrong property. The owner of property so attached should therefore have a prompt remedy against the mistakes, or, it may be, the fraud, of the decree-

holder. There is not the same danger of mistake or of fraud in the case of property declared in a decree liable to be sold. In such a case the decree-holder and judgment-debtor have entered into a solemn contract - most probably many years previously—that a certain definite property shall be pledged as security for the debt. There is very little danger in this case of the decree-holder proceeding against the wrong property. There may be fraud. The decree-holder and judgment-debtor may be in collusion and the decree may be altogether fraudulent. But this affects no one until the possession of the occupier of the property is disturbed. Then, in the case of property declared by the decree to be liable to be sold also, no reason has been assigned why an order which is to have the effect of a decree in a suit should be obtained without the payment of the Court-fee, which would have to be paid if such a suit was brought under the present law.

The proposed new clause has the further disadvantage of dealing in one place with two perfectly distinct subjects, hitherto dealt with in two distinct parts of the Code, *viz.*, attachment and sale.

(8) The provisions of clause 268AA are novel and introduce into this country for the first time the English practice as regards the garnishment of debts. I am of opinion that this practice should be introduced gradually and at first only experimentally and tentatively and that it is inexpedient to make the procedure for the attachment of debts by garnishee orders applicable to rents and profits derivable from agricultural land or to any unascertained sum of money. It appears to me to be manifestly inadvisable to apply this procedure to the rents due to a large zemindar, who may have thousands of tenants owing rent to him, or to the debts due to a banking or commercial firm, which may have running and unsettled accounts with a large number of constituents. To apply the garnishment procedure to such debts when a decree is obtained for any sum, however small, against a landlord, landholder, banking firm or merchant, would seem to me to render the proceedings in execution of such decrees most complicated and protracted. In rent suits, that is, in ostensibly simple suits for arrears of rent, it is usual to raise the most difficult questions of title, of the right to enhance and so forth, while in the case of the garnishment of debts due to a commercial firm it may be necessary to enter into debits and credits extending over a long series of years. If the garnishee clauses of the Bill are made applicable to such debts, all these questions may be raised and may have to be decided, and all these accounts may have to be examined in the course of execution proceedings (see clause 268C.) For these reasons, I proposed to insert words in clause 268AA, rendering the garnishment procedure inapplicable to such debts. This view did not, however, commend itself to the Select Committee, who have instead introduced into the Bill a new clause 268EE, providing that where the property to be attached consists of rents of agricultural land or profits payable in respect of such land or of any other debts, each of which cannot be conveniently garnished under section 268AA, the Court may in its discretion and upon the application of the decree-holder, make a charging order, declaring the right of the judgment-debtor to realize such rents, profits or debts to be attached for the satisfaction of the decree and in such case to appoint a receiver for their realization in the manner prescribed by Chapter XXXVIII. This would seem to me to be only substituting one complicated and unsuitable procedure for another and providing for the appointment of receivers in a class of cases in which the present Code does not provide for their appointment. The provisions of clause 268AA will be very indefinite and uncertain in their operation. It will never be possible to be certain what debts may be garnished and what debts it may be considered inconvenient to garnish. The procedure laid down in clause 268C will in future have the effect of converting execution cases in which the garnishment of rents and profits derivable from agricultural land or of any unascertained sum of money is sought, into complicated regular suits, and the provisions of clause 268EE, under which receivers may be appointed in such cases, will have the effect of protracting them for years.

(9) It is proposed to make great changes in the provisions of sections 310A and 311. The former section was introduced into the Code in 1894 with the object of extending to the owners of property sold in execution of decrees of all kinds the privilege conferred on the owners of tenures or holdings sold in execution of rent decrees by section 174 of the Bengal Tenancy Act, by which they are permitted within 30 days of the sale to have the sale set aside on payment to the purchaser of a sum equal to 5 per cent. on the purchase-money and to the decree-holder of the decretal amount. This was considered a great boon at the time, and though the Courts have in some cases widened the provisions of the section so as to extend the benefit of it to mortgagees, no general demand for any further extension of it so as to increase the facilities for setting aside sales has been made by the public or the legal profession. During the progress of the Bill through the Select Committee a proposal was received from the Bombay Government for a radical alteration in the terms of the section with the view of remedying the abuse of the sale provisions of the Code prevalent in the Bombay Presidency, which results in property being there sold at Civil Court sales for grossly inadequate prices. The proposals of the Bombay Government have been accepted, and the Bill has now been drafted so as to give any person either owning such property or holding an interest therein a right to set aside the sale on payment of 5 per cent. to the purchaser and to the decree-holder, not as hitherto, of the decretal amount, but of the purchase-money, and a provision has been added that a property, the sale of which has been set

aside under this clause, shall not be liable to be sold again in execution of the same decree. With the object of obviating, as far as possible, the danger of collusion between the purchaser and the judgment-debtor, the decree-holder is in future to be at liberty to bid for the property even without leave of the Court. Words have further been inserted in the clause so as to make the operation of the section clearly applicable to sales held in execution of mortgage-decrees, and expressly to overrule the terms of section 89 of the Transfer of Property Act. In making these alterations the interests of the decree-holder have been entirely disregarded and another clause to his prejudice has been added by which when the property is sold in lots, the judgment-debtor can have the sale of any particular lot set aside and can leave the decree-holder the owner of any other lot he pleases. The judgment-debtor will, of course, in future set aside the sale of only the valuable lots and leave the decree-holder in possession of any bad bargain he may have made, or of any lot he may have purchased in consideration of its being valuable only owing to its contiguity to another lot, of the ownership of which he may be deprived. In clause 311, which is a section allowing a judgment-debtor to set aside a sale on the ground of any material irregularity in publishing or conducting it, which he can prove to have caused him substantial injury, words have been inserted by which a sale may in future be set aside merely on the ground of gross inadequacy of price without proof of any irregularity from which it can have resulted. This is to entirely change the scope of the section and to introduce into it a new ground for setting aside a sale of an entirely different nature from that of the other grounds specified in the section. It is unnecessary for me to discuss these provisions at length. It is sufficient for me to say that in my opinion they are the result of a mistaken policy and that they will not achieve the object which is aimed at. They may be useful in mitigating the hardships of Court sales in the case of some individual debtors, but they will, in the long run, injure judgment-debtors as a class, and lower generally the prices for which properties will be sold by the Courts. It should be remembered that properties sold at Court sales are never, and can never be, sold for their full value. This is the case in all forced sales and in all sales in which there is a risk of a subsequent litigation, *e.g.*, as in the case of sales by a Hindu widow. It is notorious, in Bengal at least, that a person purchasing from a Hindu widow cannot safely pay the full value of the property he buys. At Court sales, the property must always sell for much less than its full value, because the purchaser knows that he buys a litigation. The more the facilities for setting aside Court sales are increased, the greater the speculation the purchaser embarks on, and the less he can afford to pay for the property. There appear to me to be four means by which the average rate at which properties are sold at Court sales can be raised. They are, first, by giving ample notice of the sale, so as to attract numerous bidders; 2nd, by giving full information about the property to be sold to intending purchasers; 3rd, by employing, to conduct the sale, a responsible and trustworthy officer of the Court, who will not collude with either party; and, 4th, by giving the purchaser a good title and a certainty that a sale once held will not be readily disturbed. In these circumstances, the purchaser can afford to give a good price for the property, and, if there are numerous bidders, the property must realize a fairly adequate price. But the greater the uncertainty that attaches to a sale, the greater the doubt the purchaser feels as to his being left in possession of his bargain, and the greater the risk of his being involved in subsequent litigation, the less he will bid and the less he will pay. For these reasons, I feel confident that the changes it is proposed with the most laudable motives to introduce into sections 310A and 311 will not have the desired effect, and, while affording means of alleviating cases of individual hardship, will be injurious to judgment-debtors as a body, and will increase rather than lessen the inadequacy of prices realized for properties at Court sales.

(10) It appears to me that clauses 366 and 368 are not complete and that in the former clause provision should be made for the case when the sole plaintiff or sole surviving plaintiff dies and the right to sue does not survive, and in the latter clause for the case when a sole defendant or sole surviving defendant dies, and the right to sue does not survive, which cases are nowhere provided for. In either case the Court should have power to declare by order that the suit has abated. Of the former case, an illustration is given in illustration (*a*) to clause 361, but this does not seem to me to be sufficient. There being no such provision, the Court can either do nothing or must pass an order under a section not properly applicable. The matter is of importance as affecting the right of appeal. An appeal now lies from an order declaring that a suit has abated. If no order, or an order under a clause not properly applicable, or an erroneous order is passed, the representative of the deceased plaintiff or defendant, as the case may be, may find obstacles in the way of his preferring an appeal.

(11) I am opposed to sub-clause (*5*) and the illustrations which the Select Committee propose to add to clause 532 of the Bill. Chapter XLI, in which this clause occurs, relates to the summary procedure on negotiable instruments, and embodies the provisions of Act V of 1866, relating to the "summary procedure on Bills of Exchange". In two cases under that Act, (*Chartered Mercantile Bank* v. *Seconde*, 3 B. L. R, O. C., 146, and *Remfry* v. *Shillingford*, I. L. R. 1 Cal. 130) it was held that the Act must be strictly construed and care should be taken not to admit a suit under the summary procedure, unless it is clearly within the Act. In the two cases above cited leave to admit suits

under the summary procedure was refused, because in them it was necessary for the plaintiffs to adduce evidence before establishing their right to sue. In the latter case, Phear, *J.*, said: "I think the Act was only intended to apply to those cases in which the Bill itself, together with mere lapse of time, is sufficient to establish for the plaintiff a *primâ facie* right to recover." The "Explanation" to section 532, may be read as meaning that it was intended to extend the operation of the section, but this would appear to be an erroneous interpretation of its meaning. The fact is Mr. Justice Phear in the passage from the judgment above cited defined the application of the Act too narrowly. The verified statements made in a plaint in a suit under Act V of 1866 were always regarded as evidence, and the Explanation added to section 532 of Act X of 1877 probably only meant to negative Mr. Justice Phear's too narrow view of the scope of the Act. The Select Committee have, however, by the sub-clause (*5*) they propose to add to clause 532 adopted the, in my opinion, erroneous reading of the meaning of the Explanation; while the illustrations they have appended to the clause give the facts of the cases of the *Chartered Mercantile Bank* v. *Seconde* and *Remfry* v. *Shillingford*, but lay down the law in exactly a contrary way to the manner in which these cases were decided. This sub-clause (*5*) and these illustrations very much widen the scope of the section and make the summary procedure applicable to a perfectly different class of cases from that to which Act V of 1866 was held, and was intended, to apply, *viz.*, to cases in which the plaintiff has to produce evidence in order to establish his right to sue. It seems to me that this is wrong. The summary procedure of Chapter XLI should, in my opinion, not be applicable to such cases. Just as, when a defendant obtains leave to defend, the suit ceases to be a summary one, and has to be tried as a regular suit under Chapter VI, so when a plaintiff has to produce evidence to establish his right to a decree, the suit should be tried as a regular one under Chapter VI (formerly Chapter V of the Code). It the summary procedure is made applicable to such cases, then there is little or no difference between them and regular suits. The Indian Bills of Exchange Act of 1866 was founded on the provisions of the English Bills of Exchange Act, 1855, and there is, therefore, no reason why the provisions of Chapter XXXIX of the Code (now Chapter XLI of the Bill) which was intended to extend to this country the procedure in force in England under which decrees are summarily obtained, formerly under that Act and now under the Judicature Acts, should be widened so as to apply to a perfectly different class of cases, which cannot properly be tried summarily. I accordingly disapprove of the addition of sub-clause (*5*), and of the illustrations to clause 532, and consider that the proper way to amend the present section is by omitting the Explanation and restoring the law to what it was under Act V of 1866.

(12) In clause 540 of the Bill of last year it was provided that where an appeal lies under this section against a decree which is preliminary to a final decree, such preliminary decree shall not be set aside or altered in appeal unless the appeal is preferred against it, and no plea which has been or might have been taken in such an appeal shall be heard in an appeal preferred against the final decree. In the Statement of Objects and Reasons it was explained that it was proposed in the interests of despatch and finality to supersede a ruling of the High Court of Calcutta to the effect that omission to appeal against a preliminary decree will not preclude objections to it being urged in an appeal against the final decree. The Select Committee have accepted in clause 2 of the Bill the distinction drawn between a preliminary and a final decree, which was intended to lead up to clause 540 of the Bill of last year; but they have reversed the declared policy of the Government of India and have proposed by sub-clause (*3*) of clause 540 of the Bill to enact that when an appeal lies from a decree which by this Code is preliminary to a final decree, any party to a suit adversely affected by such preliminary decree may at his option either prefer a separate appeal against it or await the passing of the final decree and then prefer a single appeal against both decrees together. I consider this a most unfortunate alteration. Preliminary decrees are principally passed in partition suits, suits for accounts and suits for the dissolution and winding up of partnerships. They generally settle questions as to the shares of the parties and of their liability to render accounts. It is to the interests of all parties that appeals against decrees of this nature should be settled at once before the partitions are actually made or the accounts gone into. If any party adversely affected by such a decree is to be allowed to await the result of the final decree before appealing against the preliminary decree, he may upset the whole partition and the settlement of accounts which may have been going on for years, and render useless all the expense incurred, which might have been saved, if he had only appealed at once. It has been said, and no doubt it is sometimes true, that a party, while dissatisfied with the preliminary decree, may, on the whole, find it to his interest to accept the final decree, and so he should not be compelled to appeal against the preliminary decree, or that he may only find on the passing of the final decree that it is necessary for him to appeal against the preliminary decree and hence he should not be barred from so appealing. To this it may be replied that this view of the case has regard only to the interest of individuals, while in partition suits and suits for accounts the parties are generally numerous, and that in the interest of all the parties it is better that any one dissatisfied with the preliminary decree should be bound to appeal at once. In short, the balance of convenience is in favour of the clause as drafted in the Bill of last year. It would also seem as if a party who cannot see clearly that it is to his interest to appeal when a preliminary decree is passed against

him cannot have much reason to be dissatisfied with it, and so should not be allowed to await the passing of the final decree before appealing.

Another objection to sub-clause (*3*) of clause 540, would appear to be that, while the Select Committee in their report observe that they only "propose to supersede in the sense of two rulings (*Balaram Dey* v. *Ram Chandra Dey*, I. L. R. 23 Cal. 279, and *Khadim Hossein* v. *Imdad Hossein*, I. L. R. 29 Cal. 758) the decision (*Biswa Nath Chaki* v. *Bani Kanta Datta*, I. L. R. 23 Cal. 406) to which the Bill proposed to give effect," they would seem to have done more than this. In *Biswa Nath Chaki* v. *Bani Kanta Datta* it was laid down that "any person entitled to an appeal against an order to take an account, who did not do so, but who allowed an account to be taken, and then on an appeal against the final decree succeeded in his objection to that order, would certainly suffer in costs in consequence of his having without objection allowed the subsequent proceedings to take place." This rule was approved of in the judgment of the majority of the Judges who decided *Khadim Hossein* v. *Imdad Hossein*. But, as the Select Committee by sub-clause (*3*) of clause 540 now propose to expressly confer on an appellant who is aggrieved by a preliminary decree the right to await the passing of the final decree before appealing, it is difficult to see how an Appellate Court will in future be justified in refusing him his costs, simply because he has exercised a right which the law gives him.

(13) I do not approve of the changes proposed to be made in the provisions of section 561 of the Code. By sub-clause (*4*) now added to clause 561 of the Bill, when an appeal is stayed, discontinued or dismissed, any objection filed by the respondent may nevertheless be proceeded with, and by sub-clause (*5*) this objection may be continued not only against the appellant, but against any co-respondent or even any party to the suit not a party to the appeal. It has been said that this will have the effect of discouraging appeals, and that a would-be appellant will in future think twice before instituting an appeal, which may have the effect of giving his adversary an opportunity of raising an objection against him, which may be proceeded with, if the appeal is withdrawn. I cannot, however, see the propriety of allowing a respondent who did not choose to appeal, to raise and prosecute an objection after his period for appealing has expired; and even if it may be just that he be allowed to press his objections against the person who brought him into Court, what equitable or reasonable ground is there for his being allowed to prosecute his objection against a mere co-respondent or against a party to the suit who is no party to the appeal?

(14) In section 575 of the present Code it is enacted that in the case of a difference of opinion on a point of law between Judges hearing an appeal, the appeal may be referred to one or more of the other Judges of the same Court, and shall be decided according to the opinion of the majority (if any) of all the Judges who heard the appeal, including those who first heard it. Under the provisions of this section it has been the practice of the High Court of Calcutta, when a difference of opinion on a point of law arose between Judges hearing a second appeal, for these Judges to submit the case to the Chief Justice with their opinions in writing and the Chief Justice then refers the case to a third Judge who sits alone and disposes of the appeal. Occasionally, but only rarely, the third Judge sits with the two Judges who have differed and the case is re-argued and disposed of in accordance with the views of the majority. This practice has worked well. As a general rule, it is useless to compel Judges who have heard the case and fully made up their minds on the point of law on which they have differed to sit again with the third Judge and listen again to all the arguments they have heard before and considered. It is only in the rare cases, when they consider it possible for them to change their views, that there is anything to be gained by their sitting with the third Judge But the Select Committee have altered the section so as to preclude the third Judge from sitting alone and hearing the appeal by himself in any case, and they propose in all cases to compel the Judges who have differed to sit with the third Judge and re-hear the appeal. This proposed provision is perhaps intended to discourage differences of opinion on a point of law, which, however, should, in my opinion, be rather encouraged. In any case it seems to me that in the great majority of cases this re-hearing of the case by the Judges who have differed will be nothing but a mere waste of time. The Judges who have differed will differ again and will not change their views. This plan will further involve the practical inconvenience of breaking up two Benches and perhaps leaving the colleague of the third Judge called in to sit with the differing Judges with nothing to do. The plan would not cause so much inconvenience, if it applied only to second appeals. But the provisions of clause 575 are applicable to first appeals as well. Hence, if, in the hearing of a first appeal in which there is frequently a large mass of evidence to be considered, and the reading of which may extend over many days, there is a difference of opinion on a point of law between the two Judges of the Bench, the whole appeal has to be re-heard by them and the third Judge, and even though the two Judges who differ may agree as to the facts, the evidence will all have to be read over and considered again. This will certainly be a most irksome task for the Judges and will cause a needless waste of public time. I am, therefore, of opinion that the clause should be drafted so as to allow of the present practice of the High Court of Calcutta above alluded to being followed, and of its being left optional to the Judges who differ either to sit with the third Judge and re-hear the appeal, or to leave him to sit and decide the appeal alone, as they may in the circumstances of the case deem advisable.

V H

(15) One of the principal objects with which the present Bill was framed was to curtail the right of second appeal so as to lessen the evils which now follow from the protracted system of civil appeals which prevails in this country. Indeed, a Bill was at first introduced into Council specially for this purpose, but, when it was determined to revise the whole Code of Civil Procedure, this special Bill became merged in the present one. In the Bill as introduced into Council it was proposed to allow no second appeal in cases of a Small Cause Court nature, unless the amount or value of the subject-matter exceeded one thousand rupees, and in other suits, unless the amount or value of the subject-matter exceeded one hundred rupees. Further, it was proposed in the case of concurrent decrees to bar an appeal, unless the appellant gave security for costs, and, when the decree was for the payment of money, for the decretal amount also. All these provisions have now disappeared from the Bill. Clause 584 allows a second appeal in cases of a Small Cause Court nature, unless the amount or value of the subject-matter of such appeal is less than five hundred rupees, while with regard to other suits power is given to the Local Government, with the sanction of the Governor General in Council, to declare by notification that an appeal will not lie, if the subject-matter of either the original suit or of the appeal does not exceed one hundred rupees. The provision as to the giving of security in the case of concurrent decrees has been entirely omitted. Clause 584, as it now stands, is very different from what it was last year, and it will not in my opinion, have the effect of curtailing the right of second appeal to any appreciable extent. Under the provisions of section 586 of the Code, which has now disappeared from the Bill, there is no second appeal in cases of a Small Cause Court nature, when the value of the suit does not exceed five hundred rupees. There would seem to me to be no good reason why, as provided in the Bill of last year, this provision should not be extended so as to bar second appeals in such cases when the value of the suit does not exceed one thousand rupees. The restriction of the right of appeal in cases of a Small Cause Court nature is not an innovation. Cases of the class that come before Small Cause Courts are of a simple nature, in which legal questions of any intricacy do not, or should not, arise. At present in such cases there is in Presidency-towns no first appeal, far less a second appeal, and the Presidency Small Cause Courts can dispose of cases up to a pecuniary limit of Rs. 2,000. In the Mofussil the ordinary limit of the jurisdiction of Small Cause Courts in respect of the value of the cause of action is Rs. 500, but this limit can be raised to Rs. 1,000 (see section 15 (*3*). Act IX of 1887) and this special jurisdiction is exercised in Bengal by at least one Mofussil Small Cause Court. In these circumstances, it seems to me that there will be no hardship or danger in making the decision of the First Appellate Court final in all such cases not exceeding Rs. 1,000 in value. Moreover, from statistics prepared by the Calcutta High Court, it appears that the number of cases in Bengal that will be affected by this provision will be very small. In suits not of a Small Cause Court nature, there can be no doubt that the right of second appeal is abused. I have had second appeals before me in which the value of the subject-matter was a very minute strip of land valued at two annas, and second appeals in which the value of the subject-matter is less than ten rupees are common. The proposal of the Select Committtee to give local Governments the power of declaring by notification that second appeals shall not lie in such cases, when the value of the subject-matter of either the original suit or of the appeal is less than Rs. 100, does not commend itself to me. This is throwing on the local Governments a duty which should be discharged by the Legislature, and which the Local Governments from their want of acquaintance with the circumstances of litigation in the provinces they administer or for other reasons may be reluctant to perform. Further, it will in any case introduce into the different provinces of the empire a diversity in respect of the right of second appeal which will inevitably give rise to dissatisfaction.

(16) I do not think that the provisions of clause 585 of the Bill are either necessary or advisable. This clause permits a second Appellate Court, if the evidence on the record is sufficient to enable it to dispose of the appeal, to determine any issue of fact necessary for the proper adjudication of the case, but omitted to be determined by either of the Lower Courts. The language of the clause is doubtless permissive; but I fear they may be read, and endeavours will be made to have them read, as *directory*. In my opinion, it is inexpedient for the second Appellate Court to have this power. Such a Court is not a Court of fact, and it should not determine any issue of fact. To do so is to assume a jurisdiction which does not belong to it, to cause delay and expense involved in the translating and printing of the evidence, to deprive the parties of the finding on the facts of the Court which heard and saw the witnesses, and to preclude their appealing against such a finding. I deprecate this clause most strongly, as it appears to me to be likely to encourage the endeavour which is always being made, and which, though constantly defeated, is ever renewed, to convert the second Appellate Court into a Court of fact, and so to set aside the finality which the law desires to attach to the findings of fact of the first Appellate Court. In support of this endeavour the terms of clause 565 will doubtless in future be relied on. In Act X of 1877 the provisions of section 565 were to the effect that where the evidence on the record is sufficient to enable the Court to pronounce judgment, the Court *shall* determine the case. In Act XIV of 1882 the word "may" was deliberately substituted in section 565 for "shall." Now, in clause 565 of the Bill, the terms of the section, as enacted in Act X of 1877, have been reproduced, and the word "shall" has been restored. This will certainly be cited in all applications under clause 585 for a finding of fact by the second

Appellate Court, and may lead to a misapprehension as to the entirely permissive nature of the terms of the clause.

R. F. RAMPINI.

March 12th, 1903.

Note.

I sign this Report subject to the following remarks.

I regret to say that I am unable to agree with the majority of my Hon'ble Colleagues on some of the provisions of the Bill which is now going to be presented to the Council. As the proposal is to republish the Bill for public criticism, I consider it proper to draw attention to some of the important points on which my views differ from those of the majority of the members of the Select Committee.

Clause 111.—This clause contains provisions for introducing in this country, for the first time, the practice of allowing a defendant to plead any claim by way of counter-claim against the plaintiff's suit. These provisions are substantially taken from the Rules of the Supreme Court of Judicature in England. There are two points, with regard to them, which require consideration.

The first is the advisability of the introduction of the aforesaid practice in this country. There is a great danger of its being resorted to by the defendant to cause vexation and harrassment to the plaintiff and to prolong the litigation by throwing obstacles in the way of bringing the action to a speedy termination.

The next point deserving consideration in connection with this matter is, whether some restrictions should not be placed on defendant's right to plead a counter-claim. The only restriction which the Bill provides is the test whether the counter-claim can conveniently be disposed of in the suit. The decision of the question of convenience will depend solely on the individual opinion of the presiding officer of the Court before whom a counter-claim is set up. What may be considered as convenient by one officer may be thought otherwise by another. It is therefore desirable that some limitation should be placed on the right of the defendant to plead a counter-claim. Instead of giving him an unlimited scope to plead any claim, he should be restricted to set up only a claim for money, or a claim which can adequately be relieved by compensation in money, or which arises out of the same transaction or series of transactions on which the plaintiff's suit is founded, or which is so connected in its nature and circumstances with the plaintiff's suit, that, for the ends of justice, the two should be tried together, and the defendant ought not to be compelled to bring a separate suit for the enforcement of his claim.

Clause 189.—An alteration of an important character is proposed to be introduced by this clause in the mode of recording evidence in appealable cases. Except where any local or special law provides otherwise, the existing Code lays down the rule that in all such cases the whole of the evidence given by a witness should be recorded. Section 182 enacts that in all such cases the evidence shall be taken down in the form of a narrative and when completed, shall be read over to the witness. Clause 182 of the Bill makes an addition to the present law by enjoining that the evidence so recorded should be signed by the witness. Clause 189 of the Bill introduces a new provision that in all appealable cases or class of cases with respect to which the Court or the Judge has been specially empowered by the Local Government, with the concurrence of the High Court, it shall not be necessary to take down the evidence of witnesses at length, but only a memorandum of the substance of their depositions is to be made. In support of this alteration it is urged that "a record *in extenso* of every incidental statement of the witnesses serves no useful purpose and that a note taken by a Judge of experience would be sufficient for the Appellate Court and would conduce to promptitude and efficiency at trials." This innovation of the law is suggested on the analogy of sections 260 and 355 of the Criminal Procedure Code and of section 148 (*f*) of the Bengal Tenancy Act, 1885.

In *some* instances it is possible that the record of evidence might have gone to an inordinate length, but they are very rare and not of frequent occurrence. The power given to the Courts by the law to disallow irrelevant questions, if exercised by them properly, is an efficient safeguard against any abuse of the rules of the existing law, and no strong case has been made out for the introduction of the new provision. The Allahabad and Madras High Courts are not in favour of the proposed alteration. Other judicial officers have also expressed an adverse opinion on this point. An Appellate Court cannot be in a position to decide satisfactorily the question of credibility of a witness unless the full record of everything said by him be available to it. In order to enable an Appellate Court to decide a question of fact properly, it is decidedly advantageous that the whole of the evidence given by witnesses should be before it.

Clause 253.—There is one point with respect to this clause which deserves notice. Of course it is not intended by this clause to place a surety in a worse position with respect to right of appeal than the judgment-debtor. But it does not lay down in specific terms that a surety will have rights of appeal to the same extent as the judgment-debtor has. It is therefore submitted that it should be provided in clear and unambiguous words that a surety against whom execution of a decree or order is sought should have the

same right of appeal as the judgment-debtor, so that there may be no room for any doubt on this point.

Clause 310A.—The existing law enables a judgment-debtor to redeem his immoveable property sold in execution of a decree by depositing in Court the amount of the decretal money specified in the sale proclamation and 5 per cent. of the purchase-money. A material alteration on this subject is now proposed by sub-clause (*1*) (*ii*) of this clause. By depositing in Court an amount equal to the sale-price instead of the decretal money, a judgment-debtor would be able to redeem the property. The proposed relaxation of the existing law, as embodied in the above-mentioned sub-clause, is open to some serious objections. In a case where the amount of the decree for which the property is sold is less than the purchase-money, it does not appear proper that the judgment-debtor should be required to deposit the whole of the purchase-money in order to get his property redeemed. Moreover, a dishonest judgment-debtor will try to take advantage of this alteration by getting the property sold at a small price and have it redeemed by the payment of that sum; and as sub-clause (*4*) protects the property, so redeemed, from further liability to attachment and sale in execution of the same decree, the judgment-debtor will be enabled to retain the property and defeat the just claims of the judgment-creditor. In cases of sale of immoveable property in execution of a decree for enforcement of mortgage, a judgment-creditor's interest is more likely to be jeopardized, specially when the judgment-debtor has got no other property from which the decree can be satisfied.

Clause 311.—Material irregularity in publishing or conducting a sale when resulting in a substantial injury to a judgment-debtor has been considered a sufficient ground for setting aside a sale of immoveable property held in execution of a decree, ever since the introduction of the first Code of Civil Procedure (Act VIII of 1859) in this country. The Bill, as amended by the Select Committee, makes a totally new departure in this respect by providing that a sale may be set aside on the ground of gross inadequacy of price alone. The original Bill had adopted the interpretation of the existing law by Their Lordships of the Privy Council that mere inadequacy of price, unless established as the direct result of the material irregularity, cannot be held to be a sufficient ground for setting aside a sale. In the majority of cases it is almost impossible to prove by direct evidence that the inadequacy of the price is the result of the material irregularity. The only modification, therefore, required of the existing law in this respect is, that if a material irregularity has been committed and the property has been sold at a grossly inadequate price, the Court may presume that the price was inadequate by reason of the irregularity. The proposed amendment of the law goes to the other extreme, and I am afraid it may open the door to the practice of fraud on the decree-holders. In connection with this clause as well as the preceding one, it may be observed that the aim of the law of Civil Procedure should be to provide for greater facilities for creditors in getting their just demands satisfied as speedily as the circumstances of the case would allow. Any provisions which may be conducive to placing into a judgment-debtor's hands means of delaying the recovery of the just demands of a decree-holder should be avoided. The greater there are the facilities for getting a sale set aside, the less there will be attraction for would-be purchasers to come forward to bid at auction-sales in execution of decrees, or to offer an adequate price for the property to be sold. Measures of this nature cannot be expected to encourage the flow of capital in this country; on the contrary, they are in the end likely to react to the detriment of the persons who are in need of borrowing money. Uncertainties in the speedy recovery of the debt to be advanced are sure to tend to the contraction of the credit of the borrowing classes, with the attendant consequences of a demand for a higher rate of interest and the depreciation in value of their property. Therefore, instead of making any material alteration in the existing law by way of providing additional facilities for getting a sale set aside, the adoption of more effective precautionary measures in publishing and conducting the sale with the view of avoiding the property being sold at an under-value would be the more desirable course. This object may be attained by framing necessary rules for the publication, fixing of an upset price, conduct, and confirmation of sale. Such rules may be embodied in the Code itself, or the more preferable course of empowering the High Courts to frame them with the concurrence of the Local Government may be adopted.

Clause 584.—The original Bill provided that no second appeal shall lie in any suit not of the nature cognizable by the Court of Small Causes, unless the amount or value of the subject-matter exceeds one hundred rupees. In the Bill as now presented by the Select Committee, that provision has been modified to this extent, that Local Governments are empowered to declare, with the previous sanction of the Governor General in Council by notification, that in any suits or class of suits not of the nature cognizable by a Court of Small Causes, when the value does not exceed Rs. 100 a second appeal should not lie. Thus the curtailment of the right of second appeal in suits of the class mentioned above, will in future be entirely in the power of the Executive Government, which it can exercise at any time after going through the formalities prescribed by sub-clauses (*3*) and (*4*). It is submitted that, so long as the Government does not or cannot improve the constitution of the intermediate Appellate Courts and the *personnel* of the presiding officers of those tribunals, there ought not to be any material curtailment of the right of second appeal. The proposed alteration is

open to serious objections. In the first place, suits instituted in this country, though small in value, do often relate to landed property or interests therein; and, considering the great importance which the people attach to such property, any curtailment in the right of second appeal is not desirable. In suits relating to land—and it must be noted that I do not include in this category suits for the enforcement of hypothecation or mortgage-contracts—the application of the pecuniary test is most fallacious and misleading. Many such suits are really incapable of being valued in money and their valuation according to the artificial standard and rules laid down in the Court-fees and Suits Valuation Acts cannot serve as a true criterion of their real value. There are other suits too which, though not relating to landed property, are nevertheless of great importance and which do not admit of being valued in money. There are other classes of cases which involve directly and indirectly interests which are considerably higher in value than the artificial valuation which a suitor is bound to put upon them for fiscal and jurisdiction purposes The taking away of the right of second appeal in such cases will entail a great hardship on a litigant. He is the best judge as to whether he should or should not carry it in second appeal to the High Court. Such suits, therefore, should be exempted by express legislation from the operation of this clause, and it should not be left to the Executive Government to include or exclude them, in or from, the notifiation which it may issue on the subject.

Fourth Schedule, Article 173A.—There is another point on which I consider that no case for any alteration in the law has been made out. It is limiting to ninety days the period within which a purchaser of immoveable property at an auction-sale in execution of decree must apply for a certificate under clause 316 of the Code; the period being computed from the day on which the sale becomes absolute under clause 312. The consequence of this alteration would be that, though an appeal may be pending from the order confirming the sale, the purchaser will nevertheless be bound to apply for the grant of a certificate. It will not always be the case that the Court will keep the application for certificate pending for an indefinite period till the decision of the appeal. In cases of sale of property of considerable value, the purchaser would have to pay a large sum for Stamp; and, if the decision of the Appellate Court be against him, he will lose the value of the Stamp. In order to avoid such consequences either provision should be made in the Stamp Act for the refund of the value of Stamp of a sale-certificate which may become void on the sale being set aside by the Appellate Court, or the limitation of the period of ninety days should not be prescribed. The purchaser is the best judge to decide whether he should apply for the certificate as soon as the sale becomes absolute under clause 312, or if an appeal is preferred after the decision of the appeal. Sub-clause (2) of clause 316 provides that the title to the property sold shall vest in the purchaser from the date of the certificate and not from before. Every purchaser, therefore, in order to acquire title in the property sold to him is bound to take out the certificate. It should be left to his discretion as to where he should apply for the certificate.

There are some minor points in the Bill on which I would have liked to make some observation, but I refrain at present to say anything regarding them.

SRI RAM.

The 12th March, 1903.

APPENDIX.

From Mr. Abdul Rahman, dated 17th December, 1901 [Paper No. 1].

From Government, Bengal, No. 2054-J., dated 13th March, 1902, and enclosures [Papers No. 2].

From Chief Commissioner, Ajmer-Merwara, No. 867--690, dated 12th July, 1902, and enclosure [Papers No. 3].

From Chief Commissioner, Coorg, No. 1294, dated 17th July, 1902 [Paper No. 4].

From Chief Commissioner, Central Provinces, No. 6785, dated 28th July, 1902, and enclosures [Paper No. 5].

From Chief Commissioner, North-West Frontier Province, No. 704-N., dated 14th August, 1902, and enclosure [Papers No. 6].

From Government, United Provinces, No. 702, dated 11th August, 1902, and enclosures [Papers No. 7].

From Chief Commissioner, Assam, No. 39-L. & L.—3794-J., dated 21st August, 1902, and enclosures [Papers No. 8].

From Agent to Governor General and Chief Commissioner in Baluchistan, No. 1370-Z., dated 26th August, 1902, and enclosure [Papers No. 9].

From Resident at Hyderabad, No. 318, dated 27th August, 1902 [Paper No. 10].

From Government, Bengal, No. 3867-J., dated 22nd August, 1902, and enclosures [Papers No. 11].

From Government, Bombay, No. 5300, dated 21st August, 1902, and enclosures [Papers No. 12].

From Government, Madras, No. 1255, dated 19th August, 1902, and enclosures [Papers No. 13].

From Government, Burma, No. 1084-L-1., dated 28th August, 1902, and enclosures [Papers No. 14].

Endorsement by Government of India, Home Department, No. 722, dated 11th September, 1902, and enclosures [Papers No. 15].

From Government, Punjab, No. 1435-S., dated 22nd August, 1902, and enclosures; from ditto, No. 1802-S., dated 16th September, 1902, and enclosure [Papers No. 16].

From District Judge, Sitapur, No. 870, dated 18th September, 1902, and enclosure [Papers No. 17].

From Government, United Provinces, No. 834A., dated 23rd September, 1902, and enclosures [Papers No. 18].

From ditto, No. 848, dated 29th September, 1902, and enclosures [Papers No. 19].

Endorsement by Home Department, No. 1533, dated 15th October, 1902, and enclosures [Papers No. 20].

From T. Ramaswami Iyengar, Esq., Retired Subordinate Judge, Coimbatore, dated 28th October, 1902 [Paper No. 21].

From the Hon'ble Mr. A. J. Yorke, Chairman, Chamber of Commerce, Madras, dated 28th October, 1902 [Paper No. 22].

From Mr. G. K. Harkare, Muddebihal, District Bijapur, Southern Maratha Country, Bombay Presidency, dated 17th October, 1902 [Paper No. 23].

From Mr. Kedarnath, Vakil, Agra, dated 27th October, 1902 [Paper No. 24].

From Government, Bengal, No. 4134-J., dated 1st November, 1902, and enclosure [Papers No. 25].

From Mr. Madhoban Das, Vakil, Agra, dated 28th October, 1902 [Paper No. 26].

From Mr. Nathu Ram, Srigobindpur, District Gurdaspur, dated 11th November, 1902 [Paper No. 27].

From Government, Madras, No. 1827, dated 1st December, 1902 [Paper No. 28].

Office Memorandum by Private Secretary to His Excellency the Viceroy, No. 118, dated 26th November, 1902, and enclosure [Papers No. 29].

From Mr. V. Anantasadasiva Iyer, Pleader, Madura, dated 6th December, 1902 [Paper No. 30].

From Registrar, High Court, Calcutta, No. 3312, dated 12th December, 1902, and enclosures [Papers No. 31].

From Government, Bengal, No. 5471-J., dated 17th December, 1902, and enclosures [Papers No. 32].

From H. David, Esq., Subordinate Judge, Allahabad, dated 19th December, 1902 [Paper No. 33].

From Government, Bombay, No. 8118, dated 22nd December, 1902, and enclosures [Papers No. 34].

From Government, Madras, No. 36, dated 16th January, 1903, and enclosure [Papers No. 35].

From Munshi Fateh Chand, Pleader, Jhelum, dated 10th February, 1903, and enclosure [Papers No. 36].

From Government, Madras, No. 171, dated 9th February, 1903, and enclosure [Papers No. 37].

From Government, Burma, No. 628—L.-6 Judicial, dated 17th February, 1903, and enclosure [Papers No. 38].

From Government, Bengal, No. 1350-J., dated 28th February, 1903, and enclosures [Papers No. 39].

No. II.

THE CODE OF CIVIL PROCEDURE, 190 .

CONTENTS.

PART I.

PRELIMINARY.

CHAPTER I.

SECTIONS.

PART II.

OF SUITS IN GENERAL.

CHAPTER II.

OF THE JURISDICTION OF THE COURTS AND *RES JUDICATA*.

CHAPTER III.

OF THE COURT OF INSTITUTION.

SECTIONS.

CHAPTER IV.

OF PARTIES AND THEIR APPEARANCES, APPLICATIONS AND ACTS.

CHAPTER V.

OF THE FRAME OF THE SUIT.

CHAPTER VI.

OF THE INSTITUTION OF SUITS.

No. II.

THE CODE OF CIVIL PROCEDURE, 190 .

CONTENTS.

CHAPTER IX.

OF WRITTEN STATEMENTS, SET-OFF AND COUNTER-CLAIM.

SECTIONS.

110. Written statement.
116. Amendment and rejection of written statement.
113. Consequences of failure to tender or amend written statement.
111. Set-off and counter-claim.

CHAPTER X.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

117. Ascertainment as to admission or denial of allegations in plaint and written statements.
118. Oral examination of party, or companion of party, or pleader.
119. Substance of examination to be written.
120. Consequence of refusal or inability of pleader to answer.

CHAPTER XI.

OF DISCOVERY AND OF THE ADMISSION, INSPECTION, PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS.

121. Delivery of interrogatories.
121A. Particular interrogatories to be submitted to Court.
122. Service of interrogatories.
123. Inquiry into propriety of delivering interrogatories.
124. Service of interrogatories on person appointed by Government or on member or officer of corporation or company.
126. Interrogatories to be answered by affidavit within certain time.
125. Power to refuse to answer interrogatories.
125A. Application to set aside interrogatories.
127. Procedure in case of omission or refusal to answer sufficiently.
128. Power to demand admission of genuineness of documents.
129. Power to order discovery by affidavit of documents.
130. Power to order production of documents during suit.
131. Notice to produce for inspection documents referred to in plaint, written statement or affidavit.
132. Notice in reply to notice under section 131.
133. Application for order of inspection.
134A. Production of verified copies of business books in lieu of inspection.

SECTIONS.

134B. Inspection by Court where privilege is claimed.
134C. Power to call for affidavit with regard to documents alleged to be or to have been in party's possession.
135. Power to order issue or question on which right to discovery depends to be first determined.
135A. Applications for discovery, etc., between co-plaintiffs or co-defendants or against several plaintiffs.
136. Consequences of failure to answer or give inspection.
136A. Application of Chapter to minors and persons of unsound mind.
137. Power of Court to send for papers from its own records or from other Courts.
138. Production of documentary evidence.
142A. Recording of admitted and return of rejected documents.
141. Endorsements on documents admitted in evidence.
141A. Endorsements on copies of admitted entries in letter-books, shop-books, accounts and public records.
142. Endorsements on documents rejected as inadmissible in evidence.
143. Court may order any document to be impounded.
144. Return of admitted documents.
145. Provisions as to documents applied to material objects.

CHAPTER. XII.

OF THE SETTLEMENT OF ISSUES.

146. Framing of issues.
147. Materials from which issues may be framed.
148. Power to examine witnesses or documents before framing issues.
149. Power to amend, add and strike out issues.
150. Statement in form of issue of question of fact or law.
151. Delivery of judgment on agreement.

CHAPTER XIII.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

152. Where parties are not at issue.
153. Where one of several defendants is not at issue with plaintiff.
154. Where parties are at issue.
155. Where either party fails to produce evidence.

CHAPTER XIV.

OF ADJOURNMENTS.

156. Adjournment of hearing and costs thereof.

SECTIONS.

157. Procedure where parties fail to appear.
158. Power to proceed notwithstanding default of either party.

CHAPTER XV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

159. Summons to attend to give evidence or produce documents.
160. Expenses of witnesses to be paid into Court beforehand.
161. Tender of expenses to witness.
162. Procedure in case of insufficient payment or detention of witness.
163. Time, place and purpose of attendance to be specified in summons.
164. Summons to produce document only.
165. Power to require person present in Court to give evidence or produce document.
165A. Power of Court to summon as witnesses strangers to suit.
166. Service of summons.
167A. Compliance with summons.
168. Procedure where witness fails to comply with summons.
169. Removal of attachment on appearance of witness.
170B. Mode of attachment under this Chapter.
173. When witness may depart.
174. Procedure where witness brought before Court in custody, cannot give evidence or produce document.
176. Attendance of witnesses in person.
177. Refusal of party to give evidence when required by Court.
178. Provisions as to witnesses to apply to parties.
178A. Payment of court-fees and other sums in certain cases.

CHAPTER XVI.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

178B. Right to begin.
179. Statement of case and production of evidence.
181. Witnesses to be examined in open Court.
182. Mode of taking down evidence in appealable cases.
183. Evidence to be interpreted in certain cases.
184. Memorandum when evidence not taken down by Judge.
185. When evidence may be taken in English.
185A. Power for Local Government to require evidence to be recorded in English.

SECTIONS.

186. Taking down of particular question and answer.
187. Noting of objections.
188. Remarks on demeanour of witnesses.
189. Mode of taking down evidence in non-appealable and certain other cases.
189A. Saving of inherent powers of Court.
191. Power to deal with evidence taken down by another Judge.
192. Power to examine witness immediately.
193. Court may recall and examine wit[illegible]s.
193A. Evidence given in connected or analogous suits.

CHAPTER XVII.

OF AFFIDAVITS.

194. Power to order any point to be proved by affidavit.
195. Evidence by affidavit in applications.
196. Matters to which affidavits to be confined.
197. Oath by whom to be administered to declarant.

CHAPTER XVIII.

OF JUDGMENT AND DECREE.

198. Judgments to be in writing and to be delivered.
199. Power to deliver undelivered judgment of predecessor.
199A. Mode of delivery.
201. Translation of judgment.
202. Judgment delivered and signed not to be materially altered or added to.
203. Contents of judgments.
203A. Judgments in connected or analogous suits.
205. Drawing up, dating and signing decrees.
205A. Procedure where Judge has vacated office before signing decree.
206A. Amendment of decree.
207. Decree for recovery of immoveable property.
208. Decree for delivery of moveable property.
209. Interest on principal in decree for payment.
210. Preliminary decree for money when postponed or made by instalments.
211. Decree relating to mesne profits.
213. Decrees in administration-suit.
214. Decree in pre-emption suit.
215. Decrees in suit for dissolution of partnership.
215A. Decrees in suit for account between principal and agent.
215B. Decree in suit for partition of property or separate possession of a share therein.

SECTIONS.

216. Decree where set-off or counter-claim allowed.
217. Certified copies of judgment and decree to be furnished.

CHAPTER XIX.

OF COSTS.

218. Costs of applications.
219. Judgment or order to direct by whom costs to be paid.
220. Power of Court as to costs.
221. Set-off of costs against sum admitted or found to be due.
222. Interest on costs and payment out of subject-matter.
222A. Finality of order as to costs.

CHAPTER XX.

OF THE EXECUTION OF DECREES AND ORDERS.

GENERAL.

222B. Application of Chapter to orders.
222C. Definition of Court which passed a decree.

Courts by which decrees may be executed.

223. Court by which decree may be executed.
223A. Jurisdiction of Court executing decree.

Execution beyond local limits of jurisdiction of Court which passed the decree.

223B. Precepts.
229. Execution of decrees passed by British Courts in places to which this Chapter does not extend or in foreign territory.
229B. Execution of decrees passed by Courts of Native States.
229A. Issue of precepts by British Indian Courts for execution to certain British Courts in foreign territory.

Questions to be determined by Court executing decree.

244. Questions to be determined by Court executing decree.
244A. Powers of Court to which precept is issued
257A. Agreement as to satisfaction of judgment-debt.
258. Payment out of Court to decree-holder.

Application for execution of decree.

230. Application for execution.
18. 230B. Execution barred in certain cases.
231. Application for execution by joint decree-holder.
232. Application for execution by transferee of decree.

SECTIONS.

233. Transferee of decree to hold subject to equities enforceable against original decree-holder.
234. Application for execution against estate of deceased judgment-debtor.
235. Form of application for execution.
236. Application for attachment of moveable property not in judgment-debtor's possession.
237. Application for attachment of immoveable property to contain certain particulars.
238. Power to require certified extract from Collector's register in certain cases.
238A. Security in case of order for execution of decree under appeal.

Stay of execution.

238B. Stay of execution pending reference to Court which passed decree.
243. Stay of execution pending suit between decree-holder and judgment-debtor.
243A. Power of Court to require security and impose conditions.
243B. Stay of execution of appealable decree.

Procedure in execution.

256. Immediate execution.
245. Procedure on receiving application for execution of decree.
246 Execution in case of cross-decrees.
247. Execution in case of cross-claims under same decree.
230A. Discretion of Court to refuse execution against person and property.
248. Notice to show cause against execution in certain cases.
248A. Duty of Court to proceed with execution if in position to proceed.
248B. Procedure where judgment-debtor objects.
248C. Allowance of time, adjournments and notice.
248F. Setting aside of order dismissing for default decree-holder's application.
248H. Removal of application.
248J. Setting aside of order made *ex parte*.
248L. Witnesses.
250. Process for execution.

Mode of execution.

252. Enforcement of decree against legal representative.
253. Enforcement of liability of surety.
254. Decree for payment of money.
259. Decree for specific moveable property.
260. Decree for specific performance or restitution of conjugal rights or recovery of wife.
260A. Discretion of Court in executing decrees for the restitution of conjugal rights.

General provisions as to commissions.

SECTIONS.

387A. Notice.
397. Expenses of commission to be paid into Court.
398. Powers of Commissioners.
399. Attendance, examination and punishment of witnesses before Commissioners.
400. Appearance of parties before Commissioner.

PART IV.

OF SUITS IN PARTICULAR CASES.

CHAPTER XXVII.

SUITS BY PAUPERS.

401. Institution or continuation of suit by person as a pauper.
402. Who may apply to institute or continue suit as pauper.
403. Contents, signature, verification and presentation of application.
406. Examination of applicant.
407. Rejection of application.
408. Notice of day for receiving and hearing evidence for and against application.
409. Procedure at hearing.
410. Procedure where application granted.
411. Procedure where pauper plaintiff succeeds.
414. Dispaupering.
412. Procedure where pauper fails or compromises.
412A. Realization of court-fees and other moneys ordered to be paid to the Government.
413. Effect of order dismissing or rejecting application to institute or continue suit as pauper.
413A. Application of chapter to set-off and counter-claims.

CHAPTER XXVIII.

SUITS BY OR AGAINST THE GOVERNMENT OR PUBLIC OFFICERS.

416. Suits by or against Secretary of State in Council.
417. Persons authorized to act for Government.
418. Plaints in suits by or against Secretary of State in Council.
419. Agent for Government to receive process.
420. Fixing of day for appearance on behalf of Secretary of State in Council.

SECTIONS.

421. Attendance of person able to answer questions relating to suit against Government.
423. Extension of time to enable defendant public officer to make reference to Government.
424. Notice previous to suing Secretary of State in Council or public officer.
424A. Modification of certain sections in cases under this Chapter.
426. Procedure in suits against public officer.
428. Exemption of public officer from arrest and personal appearance.
429. Procedure where decree against Government or public officer.
547. No security to be required from the Government or a public officer under sections 545 and 546.

CHAPTER XXIX.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

430. Suits by alien friends.
430A. Suits by alien enemies.
431. Suits by Foreign States.
432. Persons specially appointed by Government to prosecute or defend for princes or chiefs.
433. Suits against princes, chiefs, ambassadors and envoys.
434. Style of princes and chiefs as parties to suits.

CHAPTER XXX.

SUITS BY OR AGAINST CORPORATIONS AND COMPANIES.

435. Subscription and verification of plaint in suit by corporation or company.
436. Service on corporation or company.
436A. Power to require personal attendance of officer of corporation or company.

CHAPTER XXXI.

SUITS BY OR AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

437. Representation of beneficiaries in suit concerning property vested in trustees, etc.
438. Joinder of all trustees, executors and administrators.
439. Husband of married trustee, administratrix or executrix not to join.

CHAPTER XXXII.

SUITS BY OR AGAINST MINORS AND PERSONS OF UNSOUND MIND.

440. Minor to sue by next friend.

VK

SECTIONS.

443. Guardian for the suit to be appointed by Court for minor defendant.
445. Who may act as next friend or be appointed guardian for the suit.
441. Representation of minor by next friend or guardian for the suit.
461. Receipt by next friend or guardian for the suit of property under decree for minor.
462. Agreement or compromise by next friend or guardian for the suit.
463. Retirement, removal or death of next friend.
458. Retirement, removal or death of guardian for the suit.
450. Course to be followed by minor plaintiff or applicant on attaining majority.
454. Where minor co-plaintiff attaining majority desires to repudiate suit.
455. Unreasonable or improper suit.
455A. Application of Chapter to certain proceedings and to persons of unsound mind.
464. Saving for princes and chiefs and for local laws.
464A. Execution of certain orders.

CHAPTER XXXIII.

SUITS BY OR AGAINST MILITARY MEN.

465. Power for officer or soldier who cannot obtain leave to authorize any person to sue or defend for him.

CHAPTER XXXIV.

SUITS BY OR AGAINST FIRMS AND PERSONS CARRYING ON BUSINESS IN NAMES OTHER THAN THEIR OWN.

469A. Suing of partners in name of firm.
469AA. Right of suit on death of partner.
469B. Notice in what capacity served.
469C. Appearance of partners.
469D. Execution of decree against firm.
469E. Suits between co-partners.
469F. Suit against person carrying on business in name other than his own.

CHAPTER XXXV.

INTERPLEADER.

470. Where interpleader-suit may be instituted.
471. Plaint in interpleader-suit.
472. Payment or deposit in Court.
473. Procedure at first hearing.
474. Bar of interpleader-suits by agents or tenants.
475. Charge of plaintiff's costs.
476. Procedure where defendant is suing stake-holder.

PART V.

PROVISIONAL REMEDIES.

CHAPTER XXXVI.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

Arrest before judgment.

SECTIONS.

477. Application during suit for security from defendant.
480. Procedure on application by surety to be discharged.
481. Procedure where defendant fails to give security or find fresh security.
491A. Prohibition of arrest of women before judgment.
482. Subsistence-allowance of defendants arrested.

Attachment before judgment.

483. Application before judgment for security from defendant, and in default for attachment of property.
487. Investigation of claim to property attached before judgment.
488. Removal of attachment when security furnished or suit dismissed.
489. Attachment before judgment not to affect rights of strangers, nor bar decree-holder from applying for sale.
490. Property attached before judgment not to be re-attached in execution of decree.
490A. Agricultural produce not attachable before judgment.

Compensation for improper arrest or attachment.

491. Compensation for obtaining arrest or attachment on insufficient grounds.

CHAPTER XXXVII.

OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

Temporary injunctions.

492. Cases in which temporary injunction may be granted.
493. Injunction to restrain repetition or continuance of breach.
494. Notice to opposite party.
495. Injunction to corporation or company to bind its members and officers.
496. Discharge, varying or setting aside of order for injunction.
497. Compensation to defendant for issue of injunction on insufficient grounds.

Interlocutory orders.

SECTIONS.

498. Power to order interim sale of perishable articles.
499. Power to make order for detention, preservation or inspection or making inventory, of subject-matter, and to authorize entry, taking of samples and experiments.
500. Notice of application under section 498 or 499.
501. Putting of party in immediate possession of land the subject-matter of suit.
[illegible]. Deposit of money or thing in Court.

CHAPTER XXXVIII.

APPOINTMENT OF RECEIVERS.

503. Power of Court to appoint receivers.
504. Appointment of Collector to be receiver.
505. Exercise of powers under this Chapter.

PART VI.

OF SPECIAL PROCEEDINGS.

CHAPTER XXXIX.

REFERENCE TO ARBITRATION.

Arbitration in suits.

506. Parties to suit may apply for order of reference.
507. Nomination, election or choice of arbitrator.
508. Order of reference.
509. Where reference is to two or more, order to provide for difference of opinion.
510. Power of Court to appoint arbitrator in certain cases.
512. Powers of arbitrator or umpire appointed under section 509 or 510.
512A. Removal for misconduct.
513. Summoning witnesses and default.
514. Extension of time for making award.
515. When umpire may arbitrate in lieu of arbitrators.
516. Award to be signed and filed.
517. Statement of special case by arbitrators or umpire.
518. Power to modify or correct award.
519. Order as to the costs of arbitration.
520. Where award or matter referred to arbitration may be remitted.
521. Grounds for setting aside award.
522. Judgment to be according to award.

Agreements to refer to arbitration.

523. Application to file in Court agreement to refer to arbitration.

SECTIONS.

523A. Stay of proceedings where there is an agreement to refer to arbitration.
524. Provisions of Chapter applicable to proceedings under section 523.

Arbitration without the intervention of a Court.

525. Filing award in matter referred to arbitration without intervention of Court.
526. Filing of such award.

Appeals from decrees on award.

526A. Appeals.
526B. Exclusion of certain words in the specific Relief Act, 1877.

CHAPTER XL.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

527. Power to state case for opinion of Court.
528. Where value of subject-matter to be stated.
529. Agreement to be filed and numbered as suit.

CHAPTER XLI.

OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

532. Institution of summary suits upon bills of exchange, etc.
533. Defendant showing defence on merits to have leave to appear.
534. Power to set aside decree.
535. Power to order bill, etc., to be deposited with officer of Court.
536. Recovery of cost of noting non-acceptance of dishonoured bill or note.
537. Procedure in suits under this Chapter.
538 Application of Chapter.

CHAPTER XLII.

OF SUITS RELATING TO PUBLIC CHARITIES.

539. When suits relating to public charities may be brought.

PART VII.

OF APPEALS.

CHAPTER XLIII.

OF APPEALS FROM ORIGINAL DECREES.

540. Appeal from original decree.
540A. Who may appeal.
541. Form of appeal.
541A. Particulars to be contained in memorandum.

PART VIII.

CHAPTER XLVIII.

OF REFERENCES TO THE HIGH COURT.

CHAPTER XLIX.

OF REVISION BY THE HIGH COURT.

PART IX.

CHAPTER L.

OF REVIEW.

PART X.

CHAPTER LI.

SPECIAL RULES RELATING TO CHARTERED HIGH COURTS.

PART XI.

CHAPTER LI.

MISCELLANEOUS.

SECTIONS.

The Code of Civil Procedures, 190 .

(Part I.—Preliminary.—Chapter I.—Section 2.)

[The portions printed in heavy italics denote the alterations proposed by the Select Committee.]

No. II.

A bill to consolidate and amend the Law relating to the Procedure of the Courts of Civil Judicature.

WHEREAS it is expedient to consolidate and amend the law relating to the procedure of the Courts of Civil Judicature; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

CHAPTER I.

1. (*1*) This Act may be **called** the Code of Civil Procedure, **190 ; and**

Short title, commencement and extent.

(*2*) It shall come into force on the first day of ———, **190** .

(*3*) This section and sections 578A ***and 653B*** extend to the whole of British India. The other sections extend to the whole of British India, ***except the*** Scheduled Districts ***other than Sindh.***

2. In this **Code**, unless **there is anything repugnant in the** subject or context,—

Definitions.

(a) ***" agricultural produce " means growing crops and such crops after they have been reaped or gathered, so long as they are deposited on the land on which they have grown, or on a threshing-floor or place for treading out grain, or the like, or in a fodder-stack, whether in the fields or within a homestead :***

(b) **" agriculturist " means a person who *ordinarily,* by himself or by members of his family or by his servants, earns his livelihood, wholly or principally, by agriculture, or ordinarily engages personally in agricultural labour; and an agriculturist who, without any intention of changing his status as such, temporarily ceases *so* to earn his livelihood by agriculture or to engage personally in agricultural labour, or who is prevented from so earning his livelihood or engaging in agriculture by age or bodily infirmity or by necessary absence in Government service, does not thereby cease to be an agriculturist.**

Explanation.—For the purposes of this definition, "agriculture" includes market-gardening :

(c) expressions referring to " appearing" *do* not, except in the case of an application for adjourn ent which, if made by a party in person, would be granted by the Court, include the mere attendance of a pleader where such pleader, by reason of want of instructions, is unable to proceed with the case :

(d) " cause of action " means *all the facts* which it would be necessary for *a party to allege,* and, *if not admitted,* to prove, in order to support *his* claim to a decree or *to an* order *capable of execution* ; but it does not include the evidence necessary for proving such facts, and it does *not* depend upon the nature of the relief sought :

(e) " Chief Controlling Revenue-authority " means,— [Act I, s. 2 (8).

(i) in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the *United* Provinces of *Agra and* Oudh—the Board of Revenue ;

(ii) in the Presidency of Bombay, outside Sindh and the limits of the *Presidency*-town—a Commissioner ;

(iii) in Sindh—the Commissioner ;

(iv) in the Punjab and Burma—the Financial Commissioner ; and

(v) elsewhere—the Local Government or such officer as the Local Government may, by notification in the local official Gazette, appoint in this behalf :

(*f*) " Collector " **includes** every officer performing the duties of a Collector of land-revenue :

(*g*) " decree " means the formal expression of an adjudication upon any right claimed, or defence set up, in a Civil Court where such adjudication, so far as regards the Court expressing it, decides the suit or appeal **or other proceeding terminable in such an adjudication under this Code or any other enactment or rule of law for the time being in force.**

It includes ***a preliminary decree and the formal expression of—***

(*i*) *a decision under section 31 or 54* rejecting a plaint ;

(*ii*) *a decision* determining any question referred to in section 244, but not specified in section 588 *and not being such a decision as is mentioned in sub-clause (v)* ;

but it does not include *the formal expression of—*

(*iii*) *a decision* under section 97, 98, 99A, 102 or 556, dismissing a suit or appeal ;

(*iv*) a decision of an interlocutory character not turning on the merits or affecting the result of a suit *or other proceeding* as a whole ;

(*v*) *a decision* under section 366, clause (*a*), *declaring that* a sut *has* abated

The Code of Civil Procedure, 190 .

(Part I.—Preliminary.—Chapter I.—Section 2.)

(*vi*) ***a decision*** **under section 373 allowing a plaintiff to withdraw from a suit or to abandon part of his claim with liberty to bring a fresh suit;**

(*vii*) ***a decision*** **granting or refusing an application under Chapter L for a review;**

(*viii*) ***a decision*** **granting or refusing a certificate of leave to appeal to His Majesty in Council;**

(*ix*) ***a decision*** **under section 592 rejecting or refusing leave to prefer an appeal as a pauper;**

(*x*) ***a decision*** **dismissing ana pplication for the removal of a trustee;**

(*xi*) ***a decision from which an appeal lies under*** **section 588:**

(*h*) "decree-holder" means any person in whose favour a decree or any order capable of execution has been made :

(*i*) "district" means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (hereinafter called a "District Court"), and includes the local limits of the ordinary original civil jurisdiction of a High Court:

(j) the expression "final and conclusive", used in relation to a decree or order, means that such decree or order shall not be liable to appeal or revision under this Code;

(*k*) "foreign Court" means a Court situate beyond the limits of British India not having authority in British India nor established by the Governor General in Council :

(*l*) "foreign judgment" **includes** the **decree r order** of a foreign Court :

(*m*) "Government Pleader" includes any officer appointed by the Local Government to perform all or any of the functions expressly imposed by this Code on the Government Pleader :

(*n*) the expression "growing crops" includes crops of all sorts attached to the soil, and leaves, flowers and fruits upon, and juice in, trees and shrubs:

(*o*) "Judge" means the presiding officer of a Civil Court :

(*p*) "judgment" means the statement given by the Judge of the grounds of a decree or order :

(*q*) "judgment-debtor" means any person against whom a decree or ***any*** order **capable of execution** has been made :

exp.] (*r*) **the expression** "mesne profits" of property means those profits which the person in wrongful possession of such property actually received, or might with ordinary diligence have received, therefrom **during the period of his wrongful possession,** together with interest on such profits :

(*s*) **"moveable property" includes growing crops:**

(*t*) "order" means the formal expression of any decision of a Civil Court which is not a decree :

(*u*) "pleader" means **any** person entitled to appear and plead for another in Court, and includes an advocate, a vakil and an attorney of a High Court :

(*v*) "public officer" means a person falling under any of the following descriptions, namely :—

(i) every Judge ;

(ii) every **member of the Indian Civil Service;**

(iii) every commissioned **or gazetted** officer **of** His Majesty's military or naval forces **or of His Majesty's Indian Marine Service** while serving under **the** Government ;

(iv) every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties ;

(v) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

(vi) every officer of **the** Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience ;

(vii) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of **the** Government, or to make any survey, assessment or contract on behalf of **the** Government, or to execute any revenue-process, or to investigate, or to report on, any matter affecting the pecuniary interests of **the** Government, or to make, authenticate or keep any document relating to the pecuniary interests of **the** Government, or to prevent the infraction of any law for the protection of the pecuniary interests of **the** Government**; and**

(viii) every officer in the service or pay of **the** Government, or remunerated by fees or commission for the performance of any public duty :

(*w*) "sign", ***with its grammatical variations and cognate expressions,*** **does not include** a signature by initials :

(*x*) **"stock" includes shares, securities and dividends thereon :**

(y) "suit" means a proceeding in a Civil Court commenced by a plaint: and

The Code of Civil Procedure, 190 .

(Part I.—Preliminary.—Chapter I.—Sections 3-4AA, 6, 8.,)

XLV, 0, s.] ***(z) " woman " means a female human being of any age.***

Subordination of Courts.

3. For the purposes of this Code, ***the District Court is subordinate to the High Court, and*** every ***Civil*** Court of a grade inferior to that of a District Court, and every Court of Small Causes, is subordinate to the High Court and the District Court.

Savings.

4. **(1)** ***In the absence of any specific provision to the contrary, nothing in this Code shall be deemed to limit or otherwise affect any special or local law now in force or any special jurisdiction or power conferred, or any special form of procedure prescribed, by or under any other law for the time being in force:***

Provided that the procedure in cases tried by any Court in the exercise of any jurisdiction conferred by or under any of the enactments specified in the first schedule, and in appeals to the Civil Courts allowed therein, shall be in accordance with the provisions of this Code, save in so far as those provisions are inconsistent with the specific provisions of any of the enactments as aforesaid.

(2) ***In particular and without prejudice to the generality of the proposition contained in sub-section (1), nothing in this Code shall be deemed to limit or otherwise affect any remedy which a landholder or landlord may have under any law for the time being in force for the recovery of rent of agricultural land from the produce of such land.***

Power of Local Government to declare who shall be District Court.

ded by of , s. 3.] 4A. Where, under any ***law for the time being in force*** concurrent civil jurisdiction is given, the Local Government may declare which (***if any***) of the officers ***exercising such jurisdiction*** shall, for the purposes of this Code, be deemed to be the District Court.

Power to modify the Code in its application to Revenue Courts.

4AA. Where any Revenue Courts are governed by the provisions of this Code in those matters of procedure upon which any special enactment applicable to them is silent, the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare that any portions of those provisions shall not apply to those Courts, or shall only apply to them with such modifications as the Local Government, with the sanction aforesaid, may prescribe.

Explanation.—For the purposes of this section, the expression " Revenue Court " means a Court having jurisdiction under any local law to entertain suits ***or other proceedings*** relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits ***or proceedings*** as being suits ***or proceedings*** of a civil nature of which its cognizance is not barred by any enactment or rule of law for the time being in force.

Court not to exceed pecuniary jurisdiction except in certain cases.

6. Save in so far as is otherwise provided by sections ***15, 211, 223A, 257A, 578A*** and 583, sub-section (5), nothing in this Code shall be deemed to operate to give any Court jurisdiction over suits ***or other proceedings*** of which the amount or value of the subject-matter exceeds the pecuniary limits (if any) of its ordinary jurisdiction.

Application of Code to Small Cause Courts.

8. (***1***) Save as provided by sections 25, 86, 223, 223A, 223B, 223C, 224, sub-section (2), 386, 653A and 653B, and Chapter XLI, and by the Presidency Small Cause Courts Act, 1882, this Code shall not apply to any suit or ***other*** proceeding in a Presidency Court of Small Causes. [Amended by XV of 188 s. 3, and V of 1888, ss. 5.] V of 1882

(***2***) The Chapters and sections specified in the second schedule, and no others, shall apply to every suit or ***other*** proceeding in a Provincial Court of Small Causes ***or in any other Court exercising the powers of a Provincial Court of Small Causes.*** [5.]

VL

The Code of Civil Procedure, 190 .

(*Part II.—Of Suits in General.—Chapter II.—Of the Jurisdiction of the Courts and Res Judicata.—Sections 10-13.*)

PART II.

OF SUITS IN GENERAL.

CHAPTER II.

OF THE JURISDICTION OF THE COURTS AND RES JUDICATA.

No person exempt from jurisdiction by reason of descent or place of birth.

10. No person shall, by reason of his descent or place of birth, be in any ***suit or other*** proceeding exempted from the jurisdiction of any of the Courts.

Courts to try all civil suits and proceedings unless specially barred.

11. Subject to the provisions herein contained, the Courts shall have jurisdiction to try all suits and other proceedings of a civil nature, excepting suits and proceedings of which their cognizance is barred by any enactment or rule of law for the time being in force.

Explanation I.—For the purposes of this section, a suit or other proceeding in which the right to property or to an office is contested is a suit or proceeding of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

Explanation II.—For the purposes of this section, cognizance is barred by an enactment which provides a special procedure for enforcing any obligation created by such enactment but not by an enactment which merely provides a concurrent remedy.

Stay of suit where matter in issue in previous suit.

12. Save where a suit has been stayed under the provisions of section 20, the Court shall ***stay*** any suit or other proceeding in which the matter in issue is also directly and substantially in issue in a previously instituted suit or other proceeding between the same parties, or between parties under whom they or any of them claim, pending in the same or any other Court, whether superior, co-ordinate or inferior, in British India having jurisdiction to grant ***the*** relief ***sought,*** or in any Court beyond the limits of British India established by the Governor General in Council and having like jurisdiction, or before His Majesty in Council:

Provided that the pendency of a suit or other proceeding in a foreign Court shall not preclude the Courts in British India from trying a suit or other proceeding founded on the same cause of action:

Provided also that nothing in this section shall be deemed to dispense with the necessity for instituting any suit or other proceeding within the period prescribed by the law of limitation for the time being in force.

Res judicata.

13. The adjudication by a finding of fact or of law or of both, expressed in a final and subsisting judgment, order or decree of a competent Court, against which no appeal is pending, shall as a plea be a bar and as evidence be co-clusive in any suit or other proceeding to be subsequently decided, subject to the following conditions, namely:— [*13 and Expl. (IV).*]

I.—The matter directly and substantially in issue in the suit or other proceeding must have been directly and substantially in issue in the previously decided suit or other proceeding. [*13.*]

Explanation.—For the purposes of this condition,— [*Expl. I.*]

- ***(a) any matter which was alleged by one party and denied or admitted, expressly or by necessary implication, by the other in the previously decided suit or other proceeding, shall be deemed to have been directly and substantially in issue therein: and***
- ***(b) any matter which might and ought to have formed a ground of attack or defence in the previously decided suit or other proceeding and which was omitted to be alleged shall be deemed to have been in issue as aforesaid and to have been adversely decided against the party who omitted to allege it.*** [*Expl. II.*]

II. The parties in the suit or other proceeding must be— [*13.*]

- ***(a) parties to the previously decided suit or other proceeding, or persons claiming under any such parties by a title arising subsequently to the commencement of such suit or proceeding, or***
- ***(b) persons who were represented in the previously decided suit or other proceeding by any of the parties therein either—*** [*Expl. V.*]
  - ***(i) by virtue of any law for the time being in force, or***
  - ***(ii) by virtue of permis on given by the Court under section 30.***

III.—The parties as aforesaid must have litigated under the same title in the previously decided suit or other proceeding, but it is immaterial whether such parties or any of them

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter II.—Of the Jurisdiction of the Courts and Res Judicata.—Section 14B. Chapter III.—Of the Court of Institution.—Sections 15, 16.)

were ranged on the same side or on opposite sides.

[13.] ***IV.—The judgment, order or decree in the previously decided suit or other proceeding must have been delivered, made or passed by a Court of exclusive or of concurrent jurisdiction upon a matter falling within such jurisdiction, and, where the jurisdiction is concurrent, the Court which adjudicated on the previously decided suit or other proceeding must have been such a Court as would have been competent to adjudicate upon the suit or other proceeding.***

[Expl. IV.] ***Explanation.—For the purposes of this condition, Courts of Small Causes and Criminal Courts shall be deemed not to be Courts of exclusive jurisdiction.***

V.—The matter must have been heard and finally decided and the decision must have been necessary to the determination of the previously decided suit or other proceeding and not capable of being altered by the Court which gave it otherwise than on review or under sections 202, 206A and 210, and, where the parties were ranged on the same side, it must have adjudicated upon a matter of conflicting interest then in controversy between them.

[Expl. III.] ***Explanation.—For the purposes of this condition,—***

(a) any matter of the nature referred to in condition I shall be deemed to have been heard and finally decided, notwithstanding that the suit or other proceeding was disposed of—

(i) ex parte, or

(ii) by procedure under section 158, or

(iii) on a compromise or award, or

(iv) by oath tendered under section 8 of the Indian Oaths Act, 1873; and X of 1873

(b) any relief claimed but not expressly granted in the judgment, order or decree shall be deemed to have been refused.

[Amended by VI of 1888, s. 5.] 14. **(1)** No foreign judgment shall operate as a bar to a suit in British India,—

When foreign judgment no bar to suit in British India.

(*a*) if it has not been given on the merits of the case; or

(*b*) if it appears on the face of the proceedings to be founded on an incorrect view of international law or of any **enactment or rule of law for the time being** in force in British India; or

(*c*) if it is, in the opinion of the Court before which it is produced, contrary to natural justice; or

(*d*) if it ***is proved to have*** been obtained by fraud; or

(*e*) if it sustains a claim founded on a breach of any **enactment or rule of** law **for the time being** in force in British India.

(2) Where a suit is instituted in British India on the judgment of any foreign Court in Asia or Africa, except a Court of Record established by Letters Patent or a Supreme Consular Court established by an Order of **His** Majesty **or any of His Majesty's predecessors** in Council, the Court in which the suit is instituted shall not be precluded from inquiring into the merits of the case in which the judgment was **delivered.**

14B. Where a foreign judgment is pleaded in bar or tendered in evidence, the Court, on the production of such judgment duly authenticated, shall presume that it was delivered by a Court competent to deliver it, unless the contrary appears on the record.

Presumption in case of foreign judgments.

CHAPTER III.

OF THE COURT OF INSTITUTION.

15. Every suit shall be instituted in the Court of the lowest grade competent to try it; **and jurisdiction shall not be deemed to be ousted, either in the suit or in any proceeding taken in continuation thereof, *merely—***

Court in which suit to be instituted.

(a) because a plaintiff **has overestimated his claim,** or

(b) because **the value of the *subject matter*** has increased ***subsequently to the institution of the suit, or***

(c) because mesne profits claimed in a suit for recovery of possession, when ascertained and added to the value of the suit, exceed the pecuniary limits of the Court's jurisdiction.

16. Subject to the pecuniary or other limitations ***imposed upon its jurisdiction*** by **or under** any **enactment for the time being in force, every** suit—

Suit to be instituted where subject-matter situate.

(*a*) for the recovery of immoveable property,

The Code of Civil Procedure. 190 .

(Part II.—Of Suits in General.—Chapter III.—Of the Court of Institution.—Sections 19, 16A, 18, 17.)

(*b*) for the partition of immoveable property,

(*c*) for foreclosure, sale or redemption in the case of a mortgage of ***or charge upon*** immoveable property,

(*d*) for the determination of any other right to, or interest in, immoveable property, ***or***

(*e*) for compensation for wrong to immoveable property,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Provided that a suit to obtain relief respecting, or compensation for wrong to, immoveable property held by or on behalf of the defendant may, where the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction he actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation. For the purposes of this section, "property" means property situate in British India.

Suit for immoveable property situate within jurisdictions of different Courts or in different districts.

19. **(1)** Where a suit is to obtain relief respecting, or compensation for wrong to, immoveable property situate within the limits of a single district, but within the jurisdiction of different Courts, the suit may be instituted in the Court within the local limits of whose jurisdiction any portion of the property is situate:

Provided that, in respect of the value of the subject-matter of the suit, the entire claim is cognizable by such Court.

(2) Where the immoveable property is situate within the limits of different districts, such suit as aforesaid may be instituted in any Court, otherwise competent to try it, within the local limits of whose jurisdiction any portion of the property is situate.

[Added by VII of 1888, s. 6.]

Provision where local limits of jurisdiction of Courts are uncertain.

16A. **(1)** Where it is uncertain within the local limits of the jurisdiction of which of two or more Courts any immoveable property is situate, any one of those Courts may, if satisfied that there is ground for uncertainty, record or cause to be recorded a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction:

Provided that the suit is one with respect to which the Court is ***otherwise*** competent, as regards both the subject-matter and the value of the suit, to exercise jurisdiction.

(2) Where a statement has not been recorded as aforesaid and an objection is taken before an Appellate or Revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the Appellate or Revisional Court shall not allow the objection ***unless such objection was taken in the Court of first instance at or before the hearing or, where issues are settled, at or before such settlement and*** if, in its opinion,—

(***a***) there was, at the time of the institution of the suit, reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto; ***and***

(***b***) ***no miscarriage of justice has resulted.***

Suit for compensation for wrong to person or moveables.

18. Where a suit is for compensation for wrong done to the person or to moveable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain within the local limits of the jurisdiction of another Court, the suit may be instituted, at the option of the plaintiff, in either of the said Courts.

Illustrations.

(*a*) A, residing in Delhi, beats B in Calcutta. B may sue A either in Calcutta or in Delhi.

(*b*) A, residing in Delhi, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.

(*c*) A, travelling on the line of a Railway Company, whose principal office is at Howrah, is upset and injured at Allahabad by negligence imputable to the Company. He may sue the Company either at Howrah or at Allahabad.

Suit to be instituted where defendant resides or cause of action arises.

17. Subject to the ***provisions of sections 16 to 18,*** every suit shall be instituted in a Court within the local limits of whose jurisdiction— [Amended by VII of 1888, s. 7, cf. 51 & 52 Vict., c. 43, s. 74.]

(*a*) the defendant, or each of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(*b*) any of the defendants, where there are more than one at the time of the commencement of the suit, actually and voluntarily resides, or carries on business or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, ***do not object to*** such institution; or

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter III.—Of the Co u t of Institution.— Sections 20 24, 24A.)

(*c*) the cause of action, wholly or in part, arises.

(2) ***Every objection as to jurisdiction arising under sub-section (1) shall be taken at or before the first hearing or, where issues are settled, at or before such settlement, and the Court shall adjudicate upon it before proceeding to try the suit.***

(3) ***Any objection not taken in accordance with sub-clause (1) shall be deemed to have been waived.***

Explanation I.—For the purposes of this section where a person has a permanent dwelling at one place and also a lodging at another place for a temporary purpose only, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary lodging.

Explanation II.—For the purposes of this section, a corporation or company shall be deemed to carry on business at its sole or principal office in British India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Explanation III.—Where the cause of action has arisen within the local limits of the jurisdiction of any Court, this section shall not be deemed to be inapplicable merely because the defendant is a foreigner not resident within the territories to which this Code applies.

Illustrations.

(*a*) A is a tradesman in Calcutta. B carries on business in Delhi. B, by his agent in Calcutta, buys goods of A, and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business.

(*b*) A resides at Simla, B at Calcutta and C at Delhi. A, B and C being together at Benares, B and C make a joint promissory-note payable on demand, and deliver it to A. A may sue B and C at Benares, where the cause of action arose. He may also sue them at Calcutta, where B resides, or at Delhi, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot be maintained without the leave of the Court.

(c) A, a subject of the Native State of Sangli and resident therein, borrows money from B within the local limits of the jurisdiction of the Subordinate Judge of Belgaum. After A's decease, B sues, in that Court, for recovery of the money from A's legal representatives, being also subjects of the Native State and resident therein. The Subordinate Judge may entertain the suit, as the cause of action arose within the local limits of his jurisdiction.

Stay of proceedings.

20. (1) Where a suit may be instituted in any one of two or more Courts and is instituted in one of such Courts, any defendant, after giving notice in writing to the other parties, may, at or before the first hearing or, where issues are settled, at or before such settlement, apply to the Court where the suit is instituted to stay proceedings.

(2) ***Where the Court to which the application is made, after hearing such of the parties as desire to be heard, is satisfied that justice is more likely to be done by the suit being instituted or proceeded with in some Court other than the Court where it is pending, it may stay proceedings accordingly.***

Procedure where Courts in which suit may be instituted, are subordinate to different High Courts.

24. (1) Where a suit may be instituted in any one of two or more Courts ***and is instituted in one of such Courts*** and—

(*a*) such Courts are subordinate to different High Courts, ***or***

(b) one or more of such Courts is or are a High Court or High Courts and the other or others is or are not subordinate to such High Court or High Courts,

any defendant may, ***at or before the first hearing or, where issues are settled, at or before such settlement, and*** after giving notice in writing to the other parties, apply to the High Court within the local limits of whose jurisdiction the Court in which the suit is brought is situate.

(2) Where the suit is brought in any Court subordinate to a District Court, such applications, together with the objections (if any) filed by the other parties, shall be submitted ***to the High Court*** through the District Court to which such Court is subordinate; ***and*** the High Court shall, after considering the objections (if any) of the other parties, ***decide*** in which of the several Courts having jurisdiction the suit shall proceed, ***and such decision shall be binding on the*** parties.

Return of plaint in cases under sections 20 and 24.

24A. Where an order is made— [*Cf.* 2(and (4).

(1) under section 20 staying a suit, or

(2) under section 24 deciding that a suit shall proceed in a Court other than the Court in which it is instituted,

the Court ***in which the suit is pending*** shall, ***on the application of*** the plaintiff,

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter III.—Of the Court of Institutions.—Section 25.—Chapter IV.—Of Parties and their Appearances, Applications and Acts.—Sections 26, 27.)

return the plaint with an endorsement thereon of the order ***and, if*** the proper ***court-***fee has been levied on the institution of the suit and the plaintiff re-institutes the suit by ***presenting the plaint so returned*** in another Court, the plaint shall not be chargeable with any ***further*** court-fee.

Transfer ***and withdrawal.***

25. (*1*) On the application of any of the parties and after giving notice to the parties and hearing such of them as desire to be heard, or of its own motion without giving such notice, ***the High Court or the District Court may at any stage*** --

(*a*) transfer ***any suit or other proceeding pending before it*** for trial or disposal to any Court subordinate ***to it and*** competent, as regards both the subject-matter and the value of such suit or proceeding, to try or dispose of the same, or

(*b*) withdraw any suit or other proceeding pending in ***any*** Court of first instance or of appeal subordinate to it, and –

(*i*) try or dispose of ***the same;*** or

(*ii*) transfer ***the same*** for trial or disposal to any subordinate ***and competent Court as described in clause (a);*** or

(*iii*) retransfer the same for trial or disposal to the Court from which it was withdrawn.

(*2*) ***Where the High Court or District Court transfers or withdraws a suit or other proceeding under sub-section (1), the High Court or the District Court, as the case may be, may direct that such suit or proceeding shall be retried or that the trial shall proceed from the point at which the suit or proceeding was transferred or withdrawn.***

(*3*) For the purposes of this section, the Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court.

(*4*) The Court trying any suit or other proceeding ***transferred or*** withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

CHAPTER IV.

OF PARTIES AND THEIR APPEARANCES, APPLICATIONS AND ACTS.

Persons who may be joined as plaintiffs.

26. (*1*) All persons may be joined in one suit as plaintiffs in whom any right to relief in respect of or arising out of the same transaction or series of transactions is alleged to exist, whether jointly, severally or in the alternative, where, if such persons brought separate suits, any common question of law or fact would arise: [Cf. O. xvi, r. 1.]

Provided that, if, upon the application of any defendant, it appears that such joinder may embarrass or delay the ***trial*** of the suit, the Court may order separate ***trials*** or make such other order as may be expedient.

(*2*) Judgment may be given for such one or more of the plaintiffs so joined as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment.

Illustrations.

(*a*) A, a shareholder in a company, sues B, C and D, the directors, to recover damages for loss alleged to have been sustained by him personally through having been fraudulently induced ***by a declaration*** by them of an illegal dividend to purchase shares. He cannot join in the same suit a claim on behalf of himself and all other shareholders for ***repayment*** of the dividend, because the rights to the reliefs claimed in a personal and in a representative capacity have not arisen out of the same transaction or series of transactions.

(*b*) A publishes a series of books under the title of the "Aligarh and Agra Publications" so as to induce the belief that the books are publications of corporations at Aligarh and Agra, or either of them. The corporations may join as plaintiffs in a suit to restrain A from using the title because the publication and the belief induced are common questions of fact arising out of the same series of transactions.

(*c*) In a suit instituted by A, B and C jointly for an injunction ***against*** D, E and F it is alleged that all three defendants, as officers of several associations of workmen, conspired to prevent all persons, not belonging to the associations, from obtaining employment in place of the ***members of the associations.*** To constitute the overt acts alleged to have been committed in furtherance of the conspiracy, it is averred that D, E and F caused A, B and C to be molested, that E used threatening language to A, and that F assaulted C. It is proved that D was no party to the conspiracy. As the claim arises out of the same series of transactions, and involves the common question of fact and law whether the overt acts were committed in furtherance of the conspiracy, A, B and C may join in the suit, notwithstanding that an injunction is granted against E and F only.

Power to substitute or add plaintiff.

27. Where a suit has been instituted in the name of the wrong person as plaintiff, or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, ***subject to the provisions of the Indian Limitation Act, 1877, section 22,*** if satisfied that the suit was so commenced through a mistake made in good faith and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons, [Amended by VII of 1888, s. 8.] [XV of 1877.]

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter IV.—Of Parties and their Appearances, Applications and Acts.—Sections 28-34.)

with his or their consent, to be substituted or added as plaintiff or plaintiffs upon such terms as the Court thinks just.

[Cf. O. xvi, r. 4.]

Who may be joined as defendants.

28. All persons may be joined as defendants against whom the right to any relief ***in respect of the same matter*** is alleged to exist, whether jointly, severally or in the alternative; and judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

Illustration.

A purchases a plot of land from B and obtains possession of it. C dispossesses A from the land, and claims it by right of prior purchase from B. A sues C for possession with an alternative claim for refund of the purchase-money against B. The suit is maintainable.

Joinder of parties liable on same contract.

29. The plaintiff may, at his option, join as parties to the same suit all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange, hundis and promissory-notes.

Suit or defence by one ***person*** on behalf of all having same interest.

30. ***(1)*** Where there are numerous ***persons*** capable of being ascertained, and having the same interest in one suit, one or more of such ***persons,*** with the express permission of the Court given before the commencement of the suit or at any time afterwards, may sue or be sued, or may defend, in such suit, on behalf of all ***persons*** so interested; but the Court shall in such case give notice of the institution of the suit to all such ***persons*** either by personal service or, where from the number of ***persons*** or any other cause such service is not reasonably practicable, by public advertisement, as the Court in each case may direct; and the Court shall direct by whom the costs of and incident to such notice shall be paid.

[32 (3).]

(2) Any person on whose behalf a suit is instituted or defended under sub-section (1) may apply to the Court to be made a party to the suit.

Effect of misjoinder or non-joinder of parties.

31. (*1*) ***Save as otherwise provided in sub-section (2), no plaint shall be rejected or*** suit ***dismissed*** by reason of the misjoinder or non-joinder of ***any*** party, and the Court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

(2) Where the plaintiff, by reason of the misjoinder or non-joinder of any party, has no right to sue and, after a reasonable opportunity to remedy the defect has been given him by the Court, has failed to do so, the plaint may be rejected or the suit dismissed.

Striking out and adding parties.

32. (*1*) The Court may,—

(*a*) at or before the first hearing, or, where issues are settled, at or before such settlement, upon the application of either party and on such terms as the Court thinks just, order that the name of any party improperly joined, whether as plaintiff or as defendant, be struck out; and

(*b*) at any time, ***subject to the provisions of the Indian Limitation Act, 1877, section 22,*** either upon or without such application and on such terms as the Court thinks just, order that any plaintiff be made a defendant or that any defendant be made a plaintiff, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added. *XV o 1877.*

(*2*) No person shall, without his consent, be added as a plaintiff.

(*3*) Every party whose name is added under this section as a defendant ***except where his name is so added on his own application*** shall be served with a summons in manner hereinafter prescribed.

(*4*) The Court may give the conduct of the suit to such plaintiff as it deems proper.

(*5*) The Court ***may add as a party to a suit any person who appears to it to be a necessary party, although, as against such person, no relief can be granted in view of*** the law of limitation for the time being in force.

(*6*) Where a person found by the Court to be a necessary party does not consent to be added as a plaintiff, the Court shall add him as a defendant.

Where defendant added, plaint to be amended.

33. Where a defendant is added, the plaint shall, unless the Court otherwise directs, be amended in such manner as may be necessary, and amended copies of the summons and of the plaint shall, unless the Court otherwise directs, be served on the new defendant and the original defendants.

Time for taking objections as to non-joinder or misjoinder ***of parties.***

34. All objections ***on the ground of non-joinder or misjoinder*** of parties shall be taken before the first hearing or, where issues are

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter IV.—Of Parties and their Appearances, Applications and Acts.—Sections 35-41.)

settled, ***at*** or before ***such*** settlement, unless the ground of objection has subsequently arisen; and any such objection not so taken shall be deemed to have been waived by the defendant.

35. (*1*) Where there are two or more plaintiffs, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding under this Code: and in like manner, where there are two or more defendants, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any such proceeding.

Appearance of one of several plaintiffs or defendants for others.

(*2*) Every authority given under sub-section (*1*) shall be in writing signed by the party giving it, and shall be filed in Court.

36. Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party to a suit or ***other proceeding*** in such Court, may, except where otherwise expressly provided by or under any enactment or rule for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf:

Appearance in person, by recognized agent or by pleader.

Provided that any such appearance shall, if the Court so directs, be made by the party in person.

37. (*1*) The recognized agents of parties by whom such appearances, applications and acts may be made or done are—

Who are recognized agents.

(*a*) persons holding powers-of-attorney from parties, authorizing them to make and do such appearances, applications and acts on behalf of such parties;

(*b*) mukhtárs duly certificated under any law for the time being in force and holding powers-of-attorney authorizing them to do, on behalf of their principals, such acts as may legally be done by mukhtárs;

(*c*) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts.

(*2*) Nothing in sub-section (*1*) shall be deemed to apply to the territories for the time being administered, respectively, by the Lieutenant-Governor of the Punjab, and the Chief Commissioner of the Central Provinces ***or to Oudh;*** but in those territories ***and in Oudh*** the recognized agents of parties by whom such appearances, applications and acts may be made and done, shall be such persons as the Local Government may, by notification in the local official Gazette, declare in this behalf.

38. (*1*) Processes served on the recognized agent of a party to a suit or ***other proceeding*** shall, unless the Court otherwise directs, be as effectual as if the same had been served on the party in person.

Service of process on recognized agent.

(*2*) The provisions of this Code for the service of process on a party to a suit shall be deemed to apply to the service of process on his recognized agent.

39. (*1*) The appointment of a pleader to make or do any such appearance, application or act as aforesaid for any party shall be in writing, and shall be signed by such party or by his recognized agent or by some other person duly authorized by power-of-attorney to act in this behalf.

Appointment of pleader.

[Amended by VII of 1895, s. 1, and VI of 1900, s. 47.]

(*2*) Every such appointment, ***when accepted by the pleader,*** shall be filed in Court, and, when so filed, shall be considered to be in force until revoked ***or resigned,*** by leave of the Court, by a writing signed by the client ***or the pleader, as the case may be,*** and filed in Court, or until the client or the pleader dies or until the suit or ***other proceeding is*** ended so far as regards the client.

(*3*) No advocate of any High Court established under the Indian High Courts Act, 1861, or of the Chief Court of the Punjab, or of the Chief Court of Lower Burma, ***or of the Court of the Judicial Commissioner of Oudh, or of the Court of the Judicial Commissioner of the Central Provinces, or of the Sadr Court of Sindh,*** shall be required to present any document empowering him to act.

24 & 25 Vict., c. 104.

40. Any process relating to a suit or other proceeding served on the pleader of any party or left at the office or ordinary residence of such pleader, shall, whether the same is for the personal appearance of the party or not, be presumed to be duly communicated and made known to the party whom the pleader represents, and shall, unless the Court otherwise directs, be as effectual for all purposes in relation to the suit or other proceeding as if the same had been given to or served on the party in person.

Service of process on pleader.

41. (*1*) Besides the recognized agents described in section 37, any person residing within the jurisdiction of the Court may be appointed an agent to accept service of process.

Appointment of agent to accept service of process.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter V.—Of the Frame of the Suit.—Sections 42-44, 46-47.)

(*2*) Such appointment may be special or general and shall be made by an instrument in writing signed by the principal, and such instrument, or, if the appointment is general, a duly attested copy thereof, shall be filed in Court.

CHAPTER V.

OF THE FRAME OF THE SUIT.

42. Every suit shall, as far as practicable, be so framed as to afford ground for a final decision upon the subjects in dispute, and so to prevent further litigation concerning them.

Suit how to be framed.

43. (*1*) Every suit shall include the whole of the claim which the plaintiff is entitled, **at the time of the institution of the suit,** to make in respect of the cause of action, **or, in the case of successive causes of action, in respect of such causes *of action;*** and, where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

Suit to include whole claim.

(*2*) A person entitled to more than one remedy in respect of the same cause of action may sue for all or any of his remedies; but, if he omits, except with the leave of the Court **applied for** before the first hearing or, **where issues are settled, at or before such settlement,** to sue for any of such remedies, he shall not afterwards sue for the remedy so omitted.

Explanation.—For the purposes of this section, ***a claim founded on*** an obligation and ***on*** a collateral security for its performance ***shall be deemed to be a claim founded on*** one cause of action:

V of 1882. **Provided that nothing in this section shall be deemed to *preclude* a mortgagee, *who sues* for a decree to be passed in the terms of section 88 of the Transfer of Property Act, 1882, *from obtaining* relief under section 90 of the said Act, *although a claim to such relief has not been included in his suit.***

Illustration.

A lets a house to B at a yearly rent of Rs. 1,200. The rent for the whole of the years ***1900, 1901*** and ***1902*** is due and unpaid. A sues B ***in 1903*** only for the rent due for ***1901.*** A shall not afterwards sue B for the rent due for ***1900 or 1902.***

[*Cf. 31 (3).*] 44. ***(1) Where two or more plaintiffs base their claims to relief in respect of several properties on a common ground, such claims may be united in the same suit.***

Joinder of *claims when permissible.*

Illustration.

A succeeds to B's estate by inheritance and assigns a portion thereof to C. D is in possession of the estate and disputes A's right of succession to it. A and C may jointly sue D for recovery of possession of the portions of the estate to which they are entitled as their claims in respect to them are based on a common ground.

(*2*) ***A*** plaintiff may unite in the same suit ***claims founded on*** several causes of action against the same defendant or the same defendants jointly; and any plaintiffs having ***claims founded on such*** causes of action in which they are jointly interested against the same defendant, or the same defendants jointly, may unite such ***claims*** in the same suit. [45

(3) Where ***claims founded on several*** causes of action are united **in the same suit,** the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of the institution of the suit.

46. (***1***) ***The Court may, at or before the first hearing or, where issues are settled, of its own motion or on the application of any defendant, at or before such settlement or, if the parties agree, at any subsequent stage of the suit, order separate trials of claims founded on several causes of action and united in one suit, or order any such claims to be excluded from the suit, and may direct the plaint to be amended accordingly.*** [47

Confinement of suit.

(2) Every amendment made under this section shall be ***signed or initialled*** by the Judge.

47. (*1*) No ***claim*** shall, except by leave of the Court applied for **before the first hearing or, where issues are settled, at or before such settlement,** be joined with a ***claim*** for the recovery of immoveable property, or ***for*** a declaration of title to immoveable property, except— [44

Joinder of *claims* in certain cases.

(*a*) claims for mesne profits or arrears of rent in respect of the property claimed, **or for damages in respect of waste *or any other wrongful act* committed by any person in unlawful possession thereof;**

(*b*) **claims for** damages for breach of any contract under which the property or any part thereof is held;

(*c*) claims by a mortgagee to enforce any of his remedies under the mortgage;

(d) and

claims relating to moveable property, provided that the cause of action is the same.

V M

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter V.—Of the Frame of the Suit.—Section 47A. Chapter VI.—Of the Institution of Suit.—Sections 48, 50—52.)

(2) Nothing in sub-section (1) shall be deemed to prevent a plaintiff from asking, in a suit for foreclosure or redemption, for an order against the defendant for delivery of the possession of the mortgaged property.

(3) No claim by or against an executor, administrator or heir, as such, shall be joined with claims by or against him personally, unless the last-mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor, administrator or heir, or are such as he was entitled to, or liable for, jointly with the deceased person whom he represents.

s. 34.] ***47A. All objections for misjoinder of claims founded on several causes of action shall be taken at or before the first hearing or, where issues are settled, at or before such settlement, and any such objection not so taken shall be deemed to have been waived by the defendant.***

Time for taking objection as to misjoinder of claims.

CHAPTER VI.

OF THE INSTITUTION OF SUITS.

48. Every suit shall be instituted by the presentation of a plaint to the Court or such officer as it appoints in this behalf; and the person presenting the plaint shall, at *or before* the time of presentation, *endorse or cause to be* endorsed thereon his name, description and place of residence.

Suits to be commenced by plaint.

50. (1) The plaint shall contain the following particulars, namely :—

Particulars to be contained in plaint.

(*a*) the name of the Court in which the suit is brought ;

(*b*) the name, description and place of residence of the plaintiff ;

(*c*) the name, description and place of residence of the defendant, so far as they can be ascertained ;

(*d*) ***where the plaintiff or the defendant is a*** minor, a statement ***to that effect;***

(*e*) a plain and concise statement, in numbered paragraphs, of the ***facts*** constituting the cause of action, and ***of the place*** where and ***the time*** when it arose ;

(*f*) a ***prayer for*** the relief which the plaintiff claims ;

(*g*) where the plaintiff has allowed a set-off or relinquished a portion of his claim, ***a statement of*** the amount so allowed or relinquished ; and

(*h*) ***a statement of*** the value of the subject-matter of the suit, ***where necessary,*** for the purposes of jurisdiction and of court-fees.

(2) Where the plaintiff seeks the recovery of money, the plaint shall state the precise amount so far as the case admits :

Provided that, where the plaintiff sues for mesne profits ***or for damages*** or for an amount which will be found due to him on taking unsettled accounts between him and the defendant, the plaint need only state approximately the amount sued for.

(3) Where the subject-matter of the suit is immoveable property, ***the plaint shall contain a description of such property sufficient to identify the same and, in case*** such property is identified by boundaries or by numbers in a record of settlement or survey, the plaint shall specify such boundaries or numbers. [207.]

(4) Where the plaintiff sues in a representative character, the plaint shall show not only that he has an actual existing interest in the subject-matter, but that he has taken the steps ***(if any)*** necessary to enable him to institute a suit concerning it.

(5) The plaint shall show that the defendant is or claims to be interested in the subject-matter, and that he is liable to be called upon to answer the plaintiff's demand.

(6) Where the ***suit is instituted after the expiration of*** the period ordinarily ***prescribed*** by ***the*** law ***of limitation*** for ***the time being in force,*** the plaint shall show the ground upon which exemption from such law is claimed.

51. The plaint shall be signed by the plaintiff and his pleader (if any), or, where there are two or more plaintiffs, by each of the plaintiffs and his pleader (if any) :

Plaints to be signed.

Provided that, where a plaintiff is, by reason of absence or for other good cause, unable to sign the plaint, it may be signed by any person duly authorized by him to sign the plaint or to sue in his behalf.

52. (1) The plaint shall be verified at the foot by the plaintiff or by one of the plaintiffs or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.

Verification of plaints.

(2) The person verifying shall specify, by reference to the numbered paragraphs of the plaint, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(3) The verification shall be signed by the person making it and shall contain a true specification of the date on which and the place at which it was signed.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter VI.—Of the Institution of Suits.—Sections 53-54B.)

53. (1) The plaint may, ***in*** the discretion of the Court,—

Amendment of plaint.

(*a*) at any time before judgment, be amended by the Court upon such terms as to the payment of costs as the Court thinks fit;

(*b*) at or before the first hearing, or, where issues are settled, at or before such settlement, be returned for amendment within a period to be fixed by the Court and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if—

(i) it is not signed and verified as hereinbefore required, or

(ii) it does not state correctly and without prolixity the several particulars hereinbefore required or contains particulars other than those so required, or

(iii) it is wrongly framed by reason of non-joinder or misjoinder of parties or ***misjoinder of claims,*** or

(iv) it is not framed in accordance with the provisions of section 42:

Provided that a plaint shall not be amended either by the Court or by the party to whom it is returned for amendment so as to convert a suit of one character into a suit of a ***different*** and inconsistent character.

(2) Where a plaint is amended under this section the amendment shall be ***signed or initialled*** by the Judge

(3) Where the plaint has been returned for amendment and duly amended, the suit shall be deemed to have been instituted on the date when the plaint was first presented.

Illustrations.

(*a*) A, the official assignee of a deceased insolvent's estate, sues B for Rs. 1,50,000 alleged in the plaint to be unlawfully withheld from the estate in consequence of a payment fraudulently concealed from A's predecessor in office. It is proved that A's predecessor was aware of the payment. A applies to amend his plaint by alleging that, though his predecessor consented to the payment, such consent was illegal, as being a fraud, of a different kind, upon the Court. The amendment cannot be allowed, because to allege fraud of one kind and to substitute fraud of another kind is to convert the suit into one of an inconsistent character.

(*b*) A, having been put in possession of immoveable property in execution of a decree under appeal, sues B for a declaration of title relating to the property. After the presentation of the plaint, the decree is reversed by the Appellate Court on a technical objection with regard to the framing of the suit, and possession of the property affected thereby is restored to B. A applies to amend his plaint by adding a prayer for possession. The amendment may be allowed as not converting the suit into one of an inconsistent character.

54. (1) ***The plaint may, in the discretion of the Court, at or before the first hearing or, where issues are settled, at or before such settlement, be rejected if—***

Rejection of plaint.

(a) it does not disclose a cause of action, or

(b) it is obviously frivolous or vexatious, or

(c) the plaintiff fails to comply with the provisions of section 58.

(2) The plaint shall, at any stage of the ***hearing,*** be rejected, if—

(*a*) the relief sought is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a period to be fixed by the Court, fails to do so; or

(*b*) the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a period to be fixed by the Court, fails to do so; or

(*c*) the suit appears from the statement in the plaint to be barred by any ***enactment*** or rule of law; or

(*d*) the plaint, having been returned for amendment within a period fixed by the Court, is not amended within such period; or

(e) the provisions of section 58 are not complied with within a period to be fixed by the Court.

54A. Nothing in sections 53 and 54 shall be deemed to limit or otherwise affect the inherent power of the Court at any time to stay or dismiss any suit or other proceeding or to strike out any passage in any plaint, written statement or application, which is shown to the satisfaction of the Court to be frivolous or vexatious, scandalous and impertinent, or in any way an abuse of its procedure.

Saving of power of Court to prevent abuse of procedure.

54AA. Any period fixed by the Court under section 53 or ***section*** 54 may from time to time be extended, even though the original period has expired, ***if such extension appears to the Court to be reasonable and proper.*** [New. C/ 582A.]

Extension of time granted under section 53 or 54.

54B. Where a plaint has been presented within the period allowed by the law of limitation for the time being in force, but is written upon paper insufficiently stamped and the insufficiency of the stamp

Validation of certain plaints.

(Part II.—Of Suits in General.—Chapter VI.—Of the Institution of Suits.—Sections 55—61.)

was caused by mistake on the part of the plaintiff as to the amount of the requisite stamp, the ***Court shall, on his application, fix a period within which he shall supply such requisite stamp.***

(2) Where the plaintiff supplies the requisite stamp within the period fixed under sub-section (*1*) or within such further period as may from time to time be allowed by the Court, the plaint shall have the same effect and be as valid as if it had been properly stamped.

(*3*) ***Where the plaintiff fails to supply the requisite stamp as required by sub-section*** (*2*), the plaint shall be rejected.

Procedure on rejecting plaint.

55. Where a plaint is rejected, the Judge shall record or cause to be recorded an order, ***to be signed by him,*** to that effect with the reasons therefor.

When rejection of plaint does not preclude presentation of fresh plaint.

56. The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

Return of plaint for presentation to proper Court.

57. (1) The plaint shall, at any stage of the hearing, be returned to be presented to the proper Court if the suit has been instituted in a Court other than ***a*** Court competent to try it.

(2) ***Where*** the plaint ***is returned in accordance with the provisions of sub-section (1),*** the Judge shall endorse, or cause to be endorsed, thereon the date of its presentation and return, the name of the party presenting it, and a brief statement***, to be signed by him,*** of the reasons for returning it.

(*3*) ***Where the proper fee has been levied on the institution of the suit and the plaintiff re-institutes the suit by presenting the plaint so returned in another Court, it shall not be chargeable with any further court-fee.***

Register of civil suits.

8, § 5.] 57B. The Court shall cause particulars ***of every suit*** to be entered in a book to be kept for the purpose and called the register of civil suits; and such entries shall be numbered in every year according to the order in which the plaints are admitted.

Lists **of documents and concise statements.**

58. (*1*) The plaintiff shall endorse on the plaint, or annex thereto, a ***list*** of the documents (if any) which he has produced along with it; and, if the plaint is admitted, he shall, save in so far as is otherwise provided by sub-section (*2*), present as many copies on plain paper of the plaint as there are defendants.

(*2*) The Court may, if it thinks fit, having regard to the length of the plaint or the number of the defendants, or for any other sufficient reason, permit the plaintiff to present, in lieu of the copies of the plaint referred to in sub-section (*1*), a like number of concise statements of the nature of the claim made or of the relief or remedy ***prayed for***, in the suit, and thereupon the plaintiff shall present such statements.

(*3*) Where the plaintiff sues, or the defendant or any of the defendants is sued, in a representative capacity, the concise statements (if any) presented under sub-section (*2*) shall show in what capacity the plaintiff or defendant sues or is sued.

(*4*) The plaintiff may, by leave of the Court, amend such statements so as to make them correspond with the plaint.

(*5*) The *lists,* copies of plaint or concise statements referred to in this section shall be signed and *certified to be correct by the plaintiff or by his pleader (if any)*.

(*6*) The plaintiff shall, either at the time of the admission of the plaint or within such period as the Court may, by general or special order, fix, or within such further period as it may from time to time allow, furnish the copies of the plaint *or* concise statements hereinbefore referred to and all such information as may be necessary for the purpose of issuing the summons referred to in section 64.

Production of document on which plaintiff sues.

59. (*1*) Where a plaintiff sues upon a document in his possession or power, he shall produce it in Court when the plaint is presented, and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

(*2*) Where the plaintiff relies on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

(*3*) Where any such document is not in the possession or power of the plaintiff, he shall, if possible, state in whose possession or power it is. [60.]

Suits on lost negotiable instruments.

61. Where a suit is founded upon a negotiable instrument, and it is proved that the instrument is lost and an indemnity is given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon the instrument, the Court may pass such decree as it would have passed if the plaintiff had produced the instrument in Court when the plaint was presented and had at the same time delivered a copy of the instrument to be filed with the plaint.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter VI.—Of the Institution of Suits.—Sections 62, 63. Chapter VII.—Of the Issue and Service of Summons.—Sections 64, 66, 68-71.)

62. *(1)* Save in so far as is otherwise provided by the Bankers' Books Evidence Act, 1891, where a document on which the plaintiff sues is an entry in a shop-book or other book in his possession or power, the plaintiff shall produce the book at the time of filing the plaint, together with a copy of the entry on which he relies.

Production of shop-book.

(2) The ***Judge,*** or such officer as ***he*** may appoint in this behalf, shall forthwith mark the document for the purpose of identification; and, after examining and comparing the copy with the original and, if found correct, ***certifying it to be so,*** shall return the book to the plaintiff and cause the copy to be filed.

63. A document which ***was not*** produced in Court by the plaintiff when the plaint ***was*** presented ***and was not*** entered in the list to be added or annexed to the plaint, ***may*** be received in evidence on his behalf at the hearing of the suit, ***unless the Court, for reasons to be recorded, otherwise directs.***

Admissibility of document not produced when plaint filed.

CHAPTER VII.

OF THE ISSUE AND SERVICE OF SUMMONS.

Issue of summons.

64. *(1)* When the plaint has been registered and the copies or concise statements required by section 58 have been filed, a summons may be issued to each defendant to appear and answer the claim, on a day and at an hour to be therein specified,—

Summons.

(*a*) in person, or

(*b*) by a pleader duly instructed and able to answer all material questions relating to the suit, or

(*c*) by a pleader accompanied by some other person able to answer all such questions.

(2) Every such summons shall be signed by the Judge or such officer as he may appoint in this behalf, and shall be sealed with the seal of the Court:

Provided that no such summons shall be issued when the defendant has appeared at the presentation of the plaint and admitted the plaintiff's claim.

(3) Every such summons shall be accompanied by one of the copies or concise statements referred to in section 58.

66. *(1)* Where the Court sees reason to require the personal appearance of the defendant, the summons shall order him to appear in person in Court on the day therein specified.

Personal appearance of parties.

Where the Court sees reason to require the personal appearance of the plaintiff on the same day, it may make an order for such appearance.

(3) No party shall be ordered to appear in person, if he is exempted from personal appearance in Court by or under this Code or any other law for the time being in force, or, if not so exempted, unless he resides—

(*a*) within the local limits of the Court's ordinary original jurisdiction, or

(*b*) without such limits but at a place less than fifty ***miles' distance,*** or,—

(i) where there is railway ***or steamer*** communication ***or other established public conveyance*** for ***any part*** of the distance, ***and***

(ii) the whole journey can be accomplished in eight hours by means of such conveyance and by travelling at the rate of six miles an hour for the remaining part of the distance,

less than two hundred miles distance from the court-house.

68. The Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only or for the final disposal of the suit; and the summons shall contain a direction accordingly:

Summons to be either to settle issues or for final disposal.

Provided that, in every suit heard by a Court of Small Causes, the summons shall be for the final disposal of the suit.

69. The day for the appearance of the defendant shall be fixed by the Court with reference to its current business, the place of residence of the defendant and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant sufficient time to enable him to appear and answer on such day.

Fixing day for appearance of defendant.

70. The summons to appear and answer shall order the defendant to produce ***all*** document***s*** in his possession or power upon which ***he*** intends to rely in support of his case.

Direction in summons with regard to documents.

71. Where the summons is for the final disposal of the suit, it shall direct the defendant to produce, on the day fixed for his appearance, ***all*** witnesses upon whose evidence, ***and all documents upon which,*** he intends to rely in support of his case.

On issue of summons for final disposal, defendant to be directed to produce his witnesses.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter VII.—Of the Issue and Service of Summons.—Sections 72-81.)

Service of summons.

[Amended VII of 1888, s. 10.]

Delivery or transmission of summons for service.

72. (*1*) **Where** the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction empowered to accept service of the summons, the summons shall, **unless the Court otherwise directs,** be delivered or sent to the proper officer to be served by him or one of his subordinates.

(2) The proper officer may be an officer of a Court **other** than that in which the suit is instituted, and, where he is such an officer, the summons may, subject to any rules which the High Court may make in this behalf, be sent to him by post or in such other manner as the Court may direct.

Mode of service.

73. Service of the summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he may appoint in this behalf, and sealed with the seal of the Court.

Service on several defendants.

74. Subject to the provisions of section *469A, sub-section (6),* where there are more defendants than one, service of the summons shall be made on each defendant.

Service to be on defendant in person, where practicable, or on his agent.

75. Service shall be made, **so far as** practicable, on the defendant in person, unless he has an agent empowered to accept service, in which case service on such agent shall be sufficient.

Service on agent by whom defendant carries on business.

76. In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the Court from which the summons is issued, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed **to be** good service.

Explanation.—For the purposes of this section, the master of a ship **shall be deemed to be** the agent of his owner or charterer.

Service on agent in charge, in suits for immoveable property.

77. Where, in a suit to obtain relief respecting, or compensation for wrong to, immoveable property, service cannot be made on the defendant in person and the defendant has no agent empowered to accept service, **service** may be made on any agent of the defendant in charge of the property.

Service on male member of defendant's family.

78. Where, in any suit, the defendant cannot be found and has no agent empowered to accept service, service may be made on any adult male member of the family of the defendant residing with him.

***Explanation.*—For the purposes of this section,** a servant **shall** not **be deemed to be** a member of the family.

Interval between service and attendance.

78A. Service shall in **every** case be **made so long** before the time specified in the summons for the attendance of the person summoned **as** to allow him a reasonable **interval** for preparation and for travelling to the place at which his attendance is required. [167.]

Person served to sign acknowledgment.

79. When the serving-officer delivers or tenders a copy of the summons to the defendant personally, or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered, to an acknowledgment of service endorsed on the original summons.

80. Where—

Procedure where *signature* is refused *and service* cannot be made on person.

(*a*) the defendant or **his agent or such** other person **as aforesaid** refuses to sign the acknowledgment, **or**

(*b*) the serving-officer, **after using all due and reasonable diligence,** cannot find the defendant, and there is no agent empowered to accept service, nor any other person on whom service can be made,

the serving-officer shall affix a copy of the summons on the outer door **or on some other conspicuous part** of the house in which the defendant ordinarily resides ***or carries on business or personally works for gain,*** and shall then return the original to the Court from which it was issued, with a return endorsed thereon or annexed thereto stating that he has so affixed the copy and the circumstances under which he did so, **and the name and address of the person *(if any)* identifying the house and witnessing the affixure** :

Provided that, where the defendant ***or his agent or such other person as aforesaid*** refuses to sign the acknowledgment, and

(*i*) retains the copy of the summons delivered to him, or

(*ii*) no house in which the defendant ordinarily resides ***or carries on business or personally works for gain*** can be discovered

the Court may direct that the summons shall be deemed to have been duly served.

Endorsement of time and manner of service.

81. Where a summons has been served under section 79, **the serving-officer shall** endorse or annex, or cause to be endorsed or annexed, on or to the original summons, a return stating the time when,

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter VII.—Of the Issue and Service of Summons. —Sections 82, 83, 85—87, 89, 90, 90A.)

and the manner in which, the summons was served, **and the name and address of the person *(if any)* identifying the person to be served and witnessing the delivery or tender of the summons.**

, §1. ended by of 1888, 11

Examination of serving-officer.

82. Where a summons is returned under section 80, the Court shall, if the return under that section has not been verified by the affidavit of the serving-officer, and may, if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching his proceedings, and may make such further inquiry into the matter as it thinks fit; and shall either declare that the summons has been duly served or order such service as it thinks fit.

, §2.]

Substituted service.

83. (*1*) Where ***the summons is returned unserved and*** the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the court-house, and also upon some conspicuous part of the house (if any) in which the defendant is known to have last resided ***or carried on business or personally worked for gain,*** or in such other manner as the Court thinks fit.

[83.] (*2*) Service substituted by order of the Court **under this section** shall be as effectual as if it had been made on the defendant personally.

[84.] (*3*) Where service is substituted by order of the Court **under this section**, the Court shall fix such time for the appearance of the defendant as the case may require.

Service of summons where defendant resides within jurisdiction of another Court and has no agent to accept service.

85. (*1*) **Where** the defendant resides within the jurisdiction of any Court other than the Court in which the suit is instituted, and has no agent resident within the local limits of the jurisdiction of the latter Court empowered to accept service, such Court—

(*a*) shall send the summons, either by one of its officers or by post, to any Court not being a High Court, having jurisdiction at the place where the defendant resides, by which it can be conveniently served, **or,**

(*b*) ***may,* in its discretion, upon the application of the plaintiff, deliver it to him *or to such person as may be appointed by him* for presentation in such Court,**

and shall fix such time for the appearance of the defendant as the case may require.

(*2*) The Court to which a summons is sent **or presented under sub-section (*1*)** shall, upon receipt thereof, proceed as if it had **itself issued the summons**, and shall then return the summons to the Court from which it **was** originally issued, together with the record (if any) **of its proceedings with regard thereto.**

Service, within presidency-towns and Rangoon, of process issued by Courts outside.

86. (*1*) Where **a summons** issued by any Court established beyond the limits of the towns of Calcutta, Madras, Bombay and Rangoon is to be served within any such **limits**, it shall be sent to the Court of Small Causes within whose jurisdiction **it** is to be served.

(*2*) Such Court of Small Causes shall deal with **the summons** in the same manner as if **it had itself issued it, and** shall then return the **summons** to the Court from which it **was originally** issued.

Service on defendant in prison.

87. **Where** the defendant **is confined** in a **prison**, the summons shall be delivered ***or sent by post or otherwise*** to the officer in charge of the **prison, *for service on the defendant.***

Service where defendant resides out of British India and has no agent.

89. **Where** the defendant resides out of British India and has no agent in British India empowered to accept service, the summons shall be addressed to the defendant at the place where he is residing and ***sent*** to him by post, if there **is** postal communication between such place and the place where the Court is situate.

Service in foreign territory through British Resident or Court.

[Amended by VII of 1888, s. 12.]

90. Where, in the exercise of any foreign jurisdiction vested in His Majesty or in the Governor General in Council, a Political Agent **has** been appointed, or a Court **has been** established or continued, **with power to serve a summons issued by a Court under this Code in any foreign** territory in which the defendant resides, the summons may be sent to such **Political** Agent or Court, by post or otherwise, for the purpose of being served upon the defendant; and, if the **Political** Agent or Court returns the summons with an endorsement **signed by *such Political Agent or by the Judge or other officer of the Court*** that the summons has been served on the defendant in manner hereinbefore directed, such endorsement **shall be deemed to be** evidence of the service.

Service on public officer, railway servant, military officer or soldier.

90A. (*1*) Where the defendant is a public officer **(not belonging to His Majesty's military or naval forces or to His Majesty's Indian Marine Service) or the servant of a railway company or local authority,** the Court may, if it appears to the Court that the summons **may** be

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter VII.—Of the Issue and Service of Summons. — Sections 90AA, 91, 92A., 92B-94.)

most conveniently so served, send ***it for service on the defendant*** to the head of the office in which ***he*** is employed, ***together with a copy to be retained by the defendant.***

(*2*) Where the defendant is a commissioned or gazetted officer of His Majesty's military or naval forces or of His Majesty's Indian Marine Service, the Court shall send the summons to be served in such manner and through such person as the Governor General in Council may, by rules made in this behalf after previous publication, direct, ***together with a copy to be retained by the defendant.***

(*3*) Where the defendant belongs otherwise than as a commissioned or gazetted officer to ***His*** Majesty's military or naval forces or to His Majesty's Indian Marine Service, the Court shall send the summons to his commanding officer to be served on him, ***together with a copy to be retained by the defendant.***

90AA. Where a summons is ***delivered or*** sent to any person for service in accordance with the provisions of section ***87 or of section 90A, sub-section (1) or sub-section (3),*** or of any rules made ***under section 90A, sub-section (2),*** such person shall be bound to serve it, if possible, and to return it under his signature, with the written acknowledgment of the defendant, and such signature shall be deemed to be evidence of due service. If from any cause service is impossible, the summons shall be returned to the Court with a full statement of such cause and of the steps taken to procure service, and such statement shall be deemed to be evidence of non-service.

Duty of person to whom summons is delivered or sent for service.

91. (*1*) The Court may, notwithstanding anything hereinbefore contained, substitute for a summons a letter signed by the Judge or such officer as he may appoint in this behalf, where the defendant is, in the opinion of the Court, of a rank entitling him to such mark of consideration.

Substitution of letter for summons.

(*2*) A letter substituted under sub-section (*1*) shall contain all the particulars required to be stated in a summons, and, subject to the provisions of sub-section (*3*), shall be treated in all respects as a summons.

[92.] (*3*) A letter so substituted may be sent to the defendant by post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit; and, where the defendant has an agent empowered to accept service, the letter may be delivered or sent to such agent.

[New.] 92A. The Governor General in Council, on the recommendation of the Local Government and with the concurrence of the High Court, may, by rules made in this behalf after previous publication in the Gazette of India and the local official Gazette, direct that in any specified area the summons in all suits or in any classes of suits shall or may be served by the plaintiff without the intervention of the Court, and, in such case, shall regulate the procedure relating to such service.

Service without the intervention of the Court.

92B. (*1*) The Governor General in Council, on the recommendation of the Local Government and with the concurrence of the High Court, may, by notification in the Gazette of India and in the local official Gazette, direct that, in any specified area, service of the summons, either in all suits or in any classes of suits, shall or may be effected, either in addition to, or in substitution for, any other mode of service by post in a letter addressed to the defendant and registered under Chapter VI of the Indian Post Office Act, 1898. [New.] VI of 1898.

Service by post.

(*2*) Where a summons is ***sent*** in a letter in accordance with a notification under sub-section (*1*) and is proved to have been duly posted and registered, the Court may presume that the summons has been duly served ***at the time at which the letter would be delivered in the ordinary course of post***; and refusal of the letter by, or on behalf, or with the knowledge, of, the defendant shall have the effect of personal service of the summons on the defendant, ***who shall not be permitted to deny*** knowledge of its contents.

(*3*) The signature of the defendant ***or his agent*** taken in the ordinary course of business on the postal receipt shall, on proof of ***such signature*** by any person ***who saw the defendant or his agent sign such receipt or who is*** acquainted with ***the defendant's or his agent's*** signature, be evidence of service, although the postal officer delivering the letter is not examined as a witness.

(*4*) The provisions of section 27 of the General Clauses Act, 1897, shall not apply to service by post under this section. X of 1897.

Service of process generally.

93. (*1*) Every process issued under this Code shall, unless the Court otherwise directs, be served at the expense of the party on whose behalf it is issued.

Process to be served at expense of party issuing.

(2) The court-fee leviable for such service shall be ***paid*** within a time to be fixed by the Court before the process is issued.

94. All notices and orders in writing required by this Code to be given to, or served on, any person shall be served in the manner hereinbefore provided for the service of summons.

Service of notices and orders in writing.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter VII.—Of the Issue and Service of Summons.—Section 95. Chapter VIII.—Of the Appearance of the Parties and Consequence of Non-appearance.—Sections 96-100.)

Postage.

Postage.

95. Postage, where chargeable on any notice, summons or letter issued under this Code and forwarded by post, and the fee (if any) for postal registration ***and postal receipt***, shall be paid within a time to be fixed by the Court before the communication is forwarded:

Provided that the Local Government, with the previous sanction of the Governor General in Council, may remit such postage, or fee, or both, or may prescribe a scale of court-fees to be levied in lieu thereof.

CHAPTER VIII.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

Parties to appear on day and **at hour** fixed in summons for defendant to appear and answer.

96. On the day **and at the hour** fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the court-house in person or by their respective pleaders, and the suit shall be heard ***at that hour or later in the day according to the convenience of the Court*** unless the hearing is adjourned to a future day **and hour** fixed by the Court.

Dismissal where summons not served in consequence of plaintiff's failure to pay fees for **service**.

97. Where, on the day **and at *or after the* hour** so fixed, it is found, ***when the suit is called on for hearing***, that the summons has not been served upon the defendant in consequence of the failure of the plaintiff to pay, **within the time fixed under section 93 and section 95**, the court-fee ***and postal charges (if any) leviable or payable*** for such service, the Court may dismiss the suit:

Provided that no such order dismissing the suit shall be ***made*** although the summons has not been served upon the defendant, if, on the day **and at *or after* the hour so** fixed, he attends in person or, where he is allowed to appear by agent, by agent ***when the suit is called on for hearing***.

Dismissal where neither party appears.

98. Where, on the day **and at *or after* the hour so** fixed, neither party appears ***when the suit is called on for hearing***, the suit shall, unless the Judge, for reasons to be recorded **by him or under his personal direction and superintendence**, otherwise directs, be dismissed.

Fresh suit or restoration to file after dismissal under section 97 or 98.

99. Where a suit is dismissed under section 97 or section 98, the plaintiff ***or, if he is dead, his legal representative*** may, subject to **the law of limitation for the time being in force**, bring a fresh suit; or if, within the period of thirty days from the date of the order dismissing the suit, he satisfies the Court that there was a sufficient excuse for not paying the court-fee ***and postal charges (if any) leviable or payable*** within the time allowed **under section 93 or section 95**, or for non-appearance, as the case may be, the Court shall pass an order setting aside the dismissal and appointing a day for proceeding with the suit.

Dismissal where plaintiff, after summons returned unserved, fails to apply for fresh summons.

99A. (*1*) Where, after a summons has been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails, for a period of **six months from the date of the return made to the Court by the officer ordinarily certifying to the Court returns made by the serving officers**, to apply for the issue of a fresh summons and to satisfy the Court that he has used his best endeavours to discover the residence of the defendant who has not been served, or that such defendant is avoiding service of process, the Court may dismiss the suit as against such defendant.

(*2*) In such case the plaintiff may, subject to the law of limitation for the time being in force, bring a fresh suit.

Procedure where only plaintiff appears.

100. **(*1*)** Where, **on the day and at *or after* the hour fixed in the summons for the defendant to appear and answer**, the plaintiff appears and the defendant does not appear ***when the suit is called on for hearing***, then,—

(*a*) if it is proved that the summons was duly served, the Court may proceed *ex parte*:

(*b*) if it is not proved that the summons was duly served, a second summons shall be issued and served on the defendant **at the expense of the plaintiff unless the Court otherwise directs**:

(*c*) if it is proved that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day **and at the hour** fixed in the summons, the Court shall postpone the hearing of the suit to a future day, to be fixed by the Court, and shall direct notice of such day to be given to the defendant.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter VIII.—Of the Appearance of the Parties, and Consequence of Non-appearance.—Sections 101-108.)

(2) Where it is owing to the plaintiff's default that the summons was not duly served or was not served in sufficient time, the Court shall, if it postpones the hearing, order the plaintiff to pay the costs occasioned by such postponement and may, if it considers the default to have been wilful, dismiss the suit.

Procedure where defendant appears on day of adjourned hearing.

101. Where the Court has adjourned the hearing of the suit *ex parte*, and the defendant, at or before such hearing, appears, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit as if he had appeared on the day and at the hour fixed in the summons for him to appear and answer.

Procedure where defendant only appears.

102. Where, on the day and at ***or after*** the hour fixed in the summons for the defendant to appear and answer, the defendant appears and the plaintiff does not appear ***when the suit is called on for hearing,*** the Court shall dismiss the suit, unless the defendant admits the claim, or part thereof, in which case the Court shall pass a decree against the defendant upon such admission, and, where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.

Decree against plaintiff by default to bar fresh suit.

103. Where a suit is wholly or partially dismissed under section 102, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action; but he ***or, if he is dead, his legal representative*** may apply ***to the Court by which the decree was passed or the Court to which the business of such Court has been transferred*** for an order setting aside the dismissal, and, if it is proved that ***the plaintiff*** was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall set aside the dismissal, upon such terms as to costs or otherwise as it thinks fit, and appoint a day for proceeding with the suit :

Provided that no order shall be made under this section unless the applicant has served the opposite party with notice in writing of his application.

Procedure where defendant residing out of British India does not appear.

104. Where a suit is instituted against a defendant residing out of British India who has no agent ***in British India*** empowered to accept service, and, on the day and at ***or after*** the hour fixed in the summons for the defendant to appear and answer, the defendant does not appear ***when the suit is called on for hearing,*** the plaintiff may apply to the Court or permission to proceed with his suit, and the Court may order that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as the Court thinks fit.

Procedure where all of several plaintiffs do not appear.

105. Were there are two or more plaintiffs and, on any such day and hour as aforesaid, ***they*** do not ***all*** appear, the Court may, at the instance of the plaintiff or plaintiffs appearing, permit the suit to proceed in the same way as if all the plaintiffs had appeared, ***or*** make such order as it thinks fit.

Procedure where all of several defendants do not appear.

106. Where there are two or more defendants and, on any such day and hour as aforesaid, ***they*** do not ***all*** appear, the suit shall proceed, and the Court shall, at the time of delivering judgment, make such order as it thinks fit with respect to the defendant or defendants not appearing.

Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person.

107. Where a plaintiff or defendant, who has been ordered to appear in person under section 66, does not appear in person or show sufficient cause to the satisfaction of the Court for failing so to appear, he shall be subject to all the provisions of the foregoing sections applicable to plaintiffs and defendants, respectively, who do not appear.

Setting aside of decrees ex parte.

Setting aside decree *ex parte* against defendant.

108. (1) Where a decree is passed *ex parte* against a defendant, he, or if he is dead, his legal representative may apply to the Court by which the decree was passed ***or the Court to which the business of such Court has been transferred*** for an order setting it aside.

(2) If the applicant satisfies the Court that the summons was ***not*** duly served, or that he or his predecessor ***in interest***, as the case may be, was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall ***make*** an order setting aside the decree ***only*** in so far as it affects such ***applicant*** and any co-defendant ***or his legal representative*** associated with ***him*** by reason of a joint and indivisible relief ***having been granted against them,*** upon such terms as to costs, payment into Court or otherwise, as it thinks fit, and shall appoint a day for proceeding with the suit :

Provided that no order shall be made under this sub-section unless the applicant has served the ***plaintiff and any such co-defendant or his legal representatie*** with notice in writing of his application. [109.]

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General—Chapter IX.—Of Written Statements, Set-off and Counter-claim.—Sections 110, 116,11

CHAPTER IX.

OF WRITTEN STATEMENTS, SET OFF ***and counter-claim.***

[110 and 112.] ***110. (1) Any party*** may tender ***a*** written statement ***of his*** case at any time before or at the first hearing ***or, with the leave of the Court, at any later time.***

Written statement.

[112, first prov.] ***(2)*** The Court may at any time, ***on the application of any party or of its own motion,*** require a written statement, or an additional written statement, from any ***party,*** and ***may*** fix a time for tendering the same.

[114.] ***(3)*** **Every** written statement shall be as brief as the nature of the case admits, and shall not be argumentative; but ***it*** shall ***contain*** a simple ***statement*** of the facts ***or grounds of law*** which the party ***tendering it*** believes to be material and which he either admits or believes ***himself to*** be able to prove ***or establish; and, where such written statement is tendered by the defendant, he shall, unless the Court otherwise directs, endorse thereon or annex thereto a list*** of all ***documents, whether such documents are or not*** in ***his*** possession or power, upon which he intends to rely ***in support of*** his case, ***and the provisions of section 63, so far as they can be made applicable, shall be deemed to apply to such documents as though the defendant were a plaintiff and the written statement were a plaint.***

[115.] ***(4)*** Every ***written*** statement shall be divided into numbered paragraphs, ***each*** containing, as nearly as may be, a separate allegation, ***and*** shall be signed and verified in the manner provided for the signing and verification of plaints.

116. (1) Where any written statement—

Amendment and rejection ***of*** written statement

(a) is not in accordance with the provisions of section 110, or

(b) contains ***any frivolous, vexatious or*** irrelevant matter,

the Court may amend it then and there, or may, by an order to be endorsed thereon ***and signed by the Judge,*** reject it or return it to the party ***tendering it*** for amendment within ***such*** time ***as it may*** fix, ***subject*** to such terms ***with regard*** to costs or otherwise as ***it*** may think fit ***to impose:***

Provided that a written statement shall not be amended, either by the Court or by ***any*** party to whom it is returned for amendment, so as to convert the case of the party tendering it into a case of a different and inconsistent character.

(2) Every amendment of a written statement shall be signed or initialled by the Judge.

(3) Where a **written** statement has been rejected under this section, the party **tendering** it shall not **tender** another written statement, unless ***the Court*** expressly ***requires such statement*** or ***grants leave to tender it.***

113. Where any party fails—

Consequences of failure to tender or amend written statement.

(a) to tender any written statement required by the Court, or [42.]

(*b*) ***to amend any written statement returned to him for amendment,***

within the time fixed by the Court or such further time as the Court may allow, he shall be liable, if a plaintiff, to have his suit dismissed or, if a defendant, to have his defence struck out and to be placed in the same position as if he had not appeared and answered. [cf. 1

111. (*1*) ***Subject to the foregoing provisions,*** the defendant may, by written statement, ***plead, by way of set-off or counter-claim, any claim which can conveniently be disposed of in the suit; and, subject to the law of limitation for the time being in force,*** such ***written statement*** shall have the same effect as a plaint in a cross-suit so as to enable the Court to ***deliver***

Set-off and counter-claim.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter IX.—Of Written Statements, Set-off and Counter-claim.—Section 111. Chapter X.—Of the Examination of the Parties by the Court.—Sections 117, 118.)

judgment in the same suit both on the original and on the cross claim.

(2) ***Notwithstanding anything contained in sub-section*** (1), the Court may, ***of its own motion or*** on the application of the plaintiff ***made at or*** before the first hearing ***or, where issues are settled, at or before such settlement,*** refuse ***leave*** to the defendant to avail himself of any set-off ***or counter-claim*** which cannot be conveniently disposed of in the pending suit.

(3) Where the set-off or counter-claim involves matter which is beyond the jurisdiction of the Court but which can be conveniently disposed of in the pending suit, such Court, if it is a Court subordinate to the District Court, shall submit the record with a statement of the circumstances to such District Court.

(4) On the receipt of the record and statement referred to in sub-section (3), the District Court, if it is competent to grant relief in respect of the suit and the set-off or counter-claim, shall either try the suit itself or transfer it for trial to any Court subordinate to it and competent as aforesaid.

(5) Where, on receipt of the record and statement referred to in sub-section (3) or with respect to a suit pending before it, the District Court finds that the set-off or counter-claim involves matter beyond its jurisdiction, it shall, if in its opinion such set-off or counter-claim can be conveniently disposed of in the pending suit, submit the record with a report of the circumstances to the High Court to which it is subordinate; and, if the High Court or any Court subordinate to the High Court is competent to grant relief in respect of the whole matter in controversy, the High Court may try the suit or transfer it for trial to such subordinate Court.

(6) Where no Court is competent to grant relief in respect of the whole matter in controversy, the defendant shall be precluded from availing himself of the set-off or counter-claim.

(7) Nothing in sub-sections (3) to (6) shall be deemed to limit or otherwise affect the right of the defendant to abandon any part of his set-off or counter-claim; but, where any such part is so abandoned, the defendant shall be precluded from bringing a suit in respect of the same part or from again pleading it by way of set-off or counter-claim.

(8) Where the defendant has pleaded ***a set-off*** or ***counter***-claim and the suit is stayed, ***withdrawn*** or dismissed ***or abates,*** the set-off ***or counter-claim may*** nevertheless be proceeded with, and, where a set-off ***or counter-claim*** is established, the Court may, if the balance between such set-off ***or counter-claim*** is in favour of the defendant, pass a decree for the defendant for such balance or may otherwise adjudge to the defendant such relief as he may be entitled to on the merits of the case:

Provided that the lien of any pleader in respect of costs payable to him shall not affect the set-off ***or counter-claim.***

(9) Where the proper court-fee has been paid in respect of any set-off or counter-claim, and—

(a) the Court has, under sub-section (2), refused leave to the defendant to avail himself of such set-off or counter-claim, or

(b) the defendant is precluded by sub-section (6) from availing himself thereof,

the defendant, if he institutes a suit in respect of the same claim, shall not be liable to pay any further court-fee on the plaint in such suit.

CHAPTER X.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

117. (1) At the first hearing of the suit the Court shall ascertain from the ***parties or their pleaders*** whether ***they*** admit or den***y*** the allegations of fact made in the plaint ***or*** written statement (if any) of the opposite party, and not expressly or by necessary implication admitted or denied by the party against whom they are made.

Ascertainment as to admission or denial of allegations in plaint and written statements.

(2) Every admission or denial so ascertained shall be recorded or caused to be recorded by the Court, ***and such record shall be signed by the Judge.***

118. At the first hearing of the suit, or at any subsequent hearing, any party appearing in person or present in Court, or any person able to answer any material question relating to the suit by whom such party or his pleader is accompanied, may be examined orally by the Court: and the Court may, if it thinks fit, put in the course of such examination any question suggested by either party.

Oral examination of party, or companion of party or pleader.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter X.—Of the Examination of the Parties by the Court.—Sections 119, 120. Chapter XI.—Of Discovery and of the Admission, Inspection, Production, Impounding, and Return of Documents.—Sections 121-124.)

Substance of examination to be written.

119. The substance of every examination made under section 118 shall be reduced to writing by, or under the personal direction and superintendence of, the Judge in accordance with the provisions of Chapter XVI with respect to the taking down of the evidence of witnesses, and shall form part of the record of the suit.

Consequence of refusal or inability of pleader to answer.

120. (*1*) Where the pleader of any party who appears by a pleader, ***or any such person accompanying the pleader as is referred to in section 118,*** refuses or is unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day ***and hour*** and***, subject to the provisions of section 66, sub-section (3),*** direct that such party shall appear in person on such day.

(*2*) Where, ***on the day and at or after the hour so appointed,*** such party fails without lawful excuse, ***when the suit is called on for hearing,—***

(*a*) to appear in person, ***or***

(b) to answer any such question as is referred to in sub-section (1),

[*Cf. 136.*] ***he shall be liable, if a plaintiff, to have his suit dismissed for want of prosecution and, if a defendant, to have his defence (if any) struck out and to be placed in the same position as if he had not appeared and answered.***

CHAPTER XI.

OF DISCOVERY AND OF THE ADMISSION, INSPECTION, PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS.

Delivery of interrogatories.

121. Any party may at any time, by leave of the Court, deliver through the Court interrogatories in writing for the examination of the opposite party, or, where there are two or more opposite parties, of any one or more of such parties, with a note at the foot thereof stating which of such interrogatories each of such persons is required to answer:

Provided that no party shall, except by leave of the Court, deliver more than one set of interrogatories to the same person, and that no defendant shall deliver interrogatories for the examination of the plaintiff unless such defendant has previously tendered a written statement and such statement has been received and placed on the record:

Provided also that interrogatories which do not relate to any matter in question in the suit shall be deemed to be irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.

Particular interrogatories to be submitted to Court.

121A. On an application for leave to deliver interrogatories under section 121, the particular interrogatories proposed to be delivered shall be submitted to the Court; and, in deciding upon the application, the Court shall take into account any offer made by the party sought to be interrogated to deliver particulars or to make admissions or to produce documents relating to the matters in question or any of them; and leave shall be granted as to such only of the interrogatories submitted as the Court considers necessary either for disposing fairly of the suit or for saving costs. [N. O. 2.]

Service of interrogatories.

122. Interrogatories delivered under section 121 shall be served on the pleader (if any) of the party interrogated or in the manner hereinbefore provided for the service of summons, and the provisions of sections 79 ***to*** 83 shall, so far as they are applicable, be deemed to apply.

Inquiry into propriety of delivering interrogatories.

123. The Court, in adjusting the costs of the suit, shall, at the instance of any party, inquire, or cause inquiry to be made, into the propriety of any interrogatories delivered; and, if it thinks that such interrogatories have been delivered unreasonably, vexatiously or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be borne by the party in fault.

Service of interrogatories on ***person appointed by Government or on member or*** officer of corporation or company.

124. (1) Where the Secretary of State for India in Council is a party to any suit, any opposite party may apply to the Court for an order allowing him to deliver interrogatories to such person as the Government may appoint in this behalf.

(*2*) Where any party to a suit is a body corporate or a joint stock company, whether incorporated or not, or any other body of persons empowered by law to sue or ***to*** be sued, whether in its own name or in the name of any officer or other person, any opposite party may ***similarly*** apply for an order allowing him to

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XI.—Of Discovery and of the Admission Inspection, Production, Impounding and Return of Documents.—Sections 126, 125, 125A., 127-131.)

deliver interrogatories to any member or officer of such corporation, company or body.

Interrogatories to be answered by affidavit within certain time.

126. Interrogatories shall be answered by affidavit to be filed in Court within ten days from the service thereof or within such further time as the ***Court*** may allow.

Power to refuse to answer interrogatories.

125. Any party called upon to answer interrogatories, whether by himself or by any such member or officer, may, in the affidavit referred to in section 126, refuse to answer any interrogatory on the ground that it is scandalous or irrelevant, or is not put in good faith for the purposes of the suit, or that the matter inquired into is not sufficiently material at that stage of the suit, or on any other like ground.

ew. Cf. xxxi, r.

Application to set aside interrogatories.

125A. (*1*) At any time within seven days after the service of interrogatories as provided by section 122 *or within such further time as the Court may allow,* the party sought to be interrogated may apply to the Court to set aside any interrogatory on the ground that it *is unreasonable, vexatious,* prolix, oppressive, unnecessary or scandalous.

(*2*) An interrogatory shall not be set aside under this section merely because it is intended to supply a defect in pleading which the Court would be competent to remedy by the exercise of the powers conferred on it by section 110, *sub-section (2),* or section 146; but the Court shall set aside any interrogatory delivered for the purpose of eliciting facts bearing upon any matter in *controversy* between the parties to the suit, if the object of such interrogatory is one to which the procedure prescribed by sections 133, sub-section (2), and 134C is applicable.

Procedure in case of omission or refusal to answer sufficiently.

127. Where any person interrogated omits or refuses to answer, or answers insufficiently, any interrogatory, the party interrogating may apply to the Court for an order requiring him to answer or to answer further, as the case may be; and an order may be made requiring him to answer or to answer further, either by affidavit or by oral examination, as the ***Court*** may direct:

Provided that the ***Court*** shall not require an answer to any interrogatory which in ***its*** opinion need not have been answered under section 125.

Power to demand admission of genuineness of documents.

128. (*1*) Either party may, by a notice through the Court, within a reasonable time not less than ten days before the hearing, require the other party to admit, saving all just exceptions to the admissibility of such document in evidence, the genuineness of any document material to the suit.

(*2*) Where such notice is not given, the costs of proving such document shall not, unless the Court otherwise directs, be allowed.

(*3*) Where such notice is given and is not complied with within four days from the service thereof, the party refusing shall bear the expense of proving such document, whatever may be the result of the suit, ***unless the Court otherwise directs.***

(*4*) Every admission made under this section shall be in writing signed by the other party or his pleader, and shall form part of the record of the suit.

Power to order discovery by affidavit of documents.

129. (*1*) The Court may, at any time during the pendency therein of any suit, order any party to the suit to declare by affidavit all the documents which are or have been in his possession or power relating to any matter in question in the suit, and any party to the suit may, at any time before the first hearing, apply to the Court for such an order:

Provided that no such order shall be made where and in so far as the Court is of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

(*2*) Every affidavit made under this section shall specify which (if any) of the documents therein mentioned the declarant objects to produce, together with the grounds of his objection.

Power to order production of documents during suit.

130. The Court may, in its discretion, at any time during the pendency therein of any suit, order the production by any party thereto of such of the documents in his possession or power relating to any matter in question in such suit as the Court thinks fit; and the Court may deal with such documents when produced in such manner as appears just.

Notice to produce for inspection ***documents referred to in plaint, written statement or affidavit.***

131. (*1*) Any party to a suit may at any time, before or at the hearing thereof, give notice through the Court to any other party to produce any ***documents referred to in the plaint, written statement or affidavit*** of documents for the inspection of the party giving such notice or of his pleader, and to permit such party or pleader to take a copy thereof.

(*2*) No party failing to comply with such notice shall afterwards be at liberty to put any such document in evidence on his behalf in the suit, unless he satisfies the Court that such document relates only to his own title, or that he had some other and sufficient cause for not complying with the notice.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XI.—Of Discovery and of the Admission Inspection, Production, Impounding and Return of Documents.—Sections 132-136.)

132. Any party to a suit served with *a* notice under section 131 shall, within ten days from the service thereof, deliver through the Court to the party giving the same a notice stating a time, within three days from such delivery, at which the documents, or such of them as he does not object to produce, may be inspected at his pleader's office or some other convenient place, and stating which (if any) of the documents he objects to produce, and on what grounds.

Notice in reply to notice under section 131.

133. (*1*) Where any party to a suit served with notice under section 131 omits to deliver notice under section 132 of the time for inspection, or objects to give inspection, or names an inconvenient place for inspection, the Court may, on the application of the party desiring it, make an order for inspection at such place and in such manner as it thinks fit.

Application for order of inspection.

[134.] (2) Save in the case of documents referred to in the plaint, written statement or affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit showing—

(*a*) of what documents inspection is sought,

(*b*) that the party applying is entitled to inspect them, and

(*c*) that they are in the possession or power of the party against whom the application is made.

(*3*) An order for inspection shall not be made *under this section* where and in so far as the Court is of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

[New. Cf. O. xxxi, r. 19A.] 134A. Where the inspection of any business books is applied for, the Court may, if it thinks fit, instead of ordering inspection of the original books, order a copy of any entries therein to be furnished and verified by the affidavit of some person who has examined the copy with the original entries, and such affidavit shall state whether or not there are in the original book any and what erasures, interlineations or alterations:

Production of verified copies of business books in lieu of inspection.

Provided that, notwithstanding that such copy has been supplied, the Court may order inspection of the book from which the copy was made.

[New. Cf. O. xxxi, r. 19A.] 134B. Where, on an application for an order for inspection under section 133, privilege is claimed for any document, the Court may, ***subject to the second paragraph of section 162 of the Indian Evidence Act, 1872,*** inspect the document for the purpose of deciding as to the validity of the claim of privilege.

Inspection by Court where privilege is claimed.

I of 1872.

134C. (*1*) The Court may, on the application of any party, at any time and whether an affidavit of documents has or has not already been ordered or made, make an order requiring any other party to state by affidavit whether any document, to be specified in the application, is or has at any time been in his possession or power and, if ***it has been but is*** not then in his possession, when he parted with, and what has become of, it. [New. O. xxxi, r. 19A.]

Power to call for affidavit with regard to documents alleged to be or to have been in party's possession.

(*2*) Every application under this section shall be made on an affidavit stating that, in the belief of the declarant, the party against whom the application is made has, or has at some time had, in his possession or power the document specified in the application, and that it relates to the matters in ***controversy*** in the suit, or to some of them.

135. Where the party from whom discovery of any kind or inspection is sought objects to the same or to any part thereof, and the Court is satisfied that the right to such discovery or inspection depends on the determination of any issue or question in dispute in the suit, or that for any other reason it is desirable that any such issue or question should be determined before deciding upon the right to the discovery or inspection, the Court may order that the issue or question be determined first and reserve the question as to the discovery or inspection.

Power to order issue or question on which right to discovery depends to be first determined.

135A. (*1*) Where ***any*** right to apply for discovery or for the admission, inspection or production of documents is given by this Chapter, it may be exercised as between parties arrayed on the same side either as plaintiffs or as defendants, if there are matters to be adjusted between them in the suit. [New

Applications for discovery, etc., between co-plaintiffs or co-defendants or against several plaintiffs.

(*2*) Where there are several plaintiffs and an application for the exercise by the defendant of any such right has been granted, the plaintiffs shall all, unless the Court is satisfied that there is good reason to the contrary, be bound to join in the affidavit (if any) required by this Chapter.

136. (*1*) Where any party fails to comply with any order under this Chapter to answer interrogatories or for discovery, production or inspection, which has been duly served, he shall be liable, if a plaintiff, to have his suit dismissed for want of prosecution, and, if a defendant, to have his defence (if any) struck out and to be

Consequences of failure to answer or give inspection.

The Code of Civil Procedure, 190 .

(Part II—Of Suits in General.—Chapter XI.—Of Discovery and of the Admission, Inspection, Production, Impounding and Return of Documents.—Sections 136A-138, 142A.)

placed in the same position as if he had not appeared and answered; and the party interrogating or seeking discovery, production or inspection may apply to the Court for an order to that effect, and the Court may make such an order accordingly.

(2) Any party failing to comply with an order under this Chapter to answer interrogatories or for discovery, production or inspection, which has been served upon him personally, shall also be deemed guilty of an offence under section 188 of the Indian Penal Code. [of 1860.]

[. Cf. O. r. 29.]

Application of Chapter to minors and persons of unsound mind.

136A. **The provisions of the foregoing sections of this Chapter shall, so far as they are applicable, be deemed to apply to minor parties and to parties of unsound mind and to their next friends and guardians for the suit, *and, in the case of any such party, any affidavit mentioned in any of the said sections may be made by a next friend or by a guardian for the suit.***

Power of Court to send for papers from its own records or from other Courts.

137. (1) The Court may of its own motion, and may in its discretion upon the application of any of the parties to a suit, send for, either from its own records or from any other Court, the record of any other suit or proceeding, and inspect the same.

(2) Every application made under this section shall, unless the Court otherwise directs, be supported by the affidavit of the applicant or of his pleader, showing how the record is material to the suit in which the application is made, and that the applicant cannot, without unreasonable delay or expense, obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purposes of justice.

(3) The Court receiving a requisition for the record of a pending suit or other proceeding may, for reasons to be recorded, a copy of which shall be forwarded to the Court making the requisition, postpone compliance with such requisition until the record can be sent without unduly delaying the business of the Court receiving the requisition or until adequate provision is made for the safe custody of the record or for the travelling expenses of an officer to be deputed to convey and guard the record.

(4) Nothing in this section shall be deemed to enable the Court to use in evidence any document which, under the ***law of evidence for the time being in force,*** would be inadmissible in the suit.

Production of documentary evidence.

138. (1) The parties or their pleaders shall produce at the first hearing of the suit ***or at such later time as may be fixed by the Court*** all the documentary evidence of every description in their possession or power, on which they intend to rely **as *evidence in support of* their respective cases**, and which has not already been filed in Court, and all documents which the Court has ordered to be produced.

(2) The Court shall receive the documents so produced : [140, § 1.]

Provided that the documents produced by each party are accompanied by an accurate list thereof prepared in such form as the High Court may from time to time direct.

(3) No documentary evidence in the possession or power of any party which should have been, but has not been, produced in accordance with the provisions of sub-section (1), shall be received at any subsequent stage of the proceedings unless, **for reasons to be recorded, the Court considers its admission, on such terms as to costs or otherwise as it thinks fit, to be necessary for the ends of justice.** [139.]

(4) The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording **or causing to be recorded** the grounds of such rejection. [140, § 2.]

(5) Nothing in this section shall be deemed to limit or otherwise affect—

(a) the duty to produce any document called for by the Court, or

(b) the right to produce any document—

(i) for the cross-examination of the opposite party's witnesses, or

(ii) in answer to any case set up by the opposite party, or

(iii) to be handed to a witness merely to refresh his memory, or

(iv) for the comparison of any handwriting or seal.

Recording of admitted and return of rejected documents.

142A. (1) Every document admitted in evidence, or a copy thereof where a copy has been substituted for the original under section 141A, shall form part of the record of the suit. [Substituted by VII of 1888, s. 13.]

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XI.—Of Discovery and of the Admission, Inspection, Production, Impounding and Return of Documents.—Sections 141-144).

(2) Documents not admitted in evidence shall not form part of, and shall not be placed on, the record, but shall, as soon as rejected, be returned to the ***persons*** respectively producing them.

Endorsements on documents admitted in evidence.

141. (1) Subject to the provisions of sub-section (**2**), there shall be endorsed on every document admitted in evidence in a suit—

(*a*) the number and title of the suit,

(*b*) the name of the person producing the document,

(*c*) the date on which it was produced, and

(*d*) a statement of its having been so admitted;

and the endorsement shall be signed ***or initialled*** by the Judge.

[Added by VII of 1888, s. 13.]

(2) Where a document so admitted is an entry in a book, account or record, and a copy thereof has been substituted for the original under section 141A, the particulars aforesaid shall be endorsed on the copy and the endorsement shall be signed ***or initialled*** by the Judge.

(3) Where the provisions of sub-section (1) cannot for any reason be carried out, the Court shall mark the document for identification in such manner as it thinks fit.

[Amended by VII of 1888, s. 18.]

XVIII of 1891.

Endorsements on copies of admitted entries in ***letter-books,*** shop-books, accounts and ***public*** records.

141A. (1) ***Save in so far as is otherwise provided by the Bankers' Books Evidence Act, 1891,*** where a document admitted in evidence in a suit is an entry in a ***letter-book or a*** shop-book or other account in current use, the party on whose behalf the account is produced may furnish a copy of the entry.

(2) Where such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished,—

(**a**) where the record, book or account is produced on behalf of a party, then by that party, or

(b) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

(3) Where a copy of an entry is furnished under this section, the Court shall, after causing the copy to be examined, compared and ***certified to be correct*** in the manner prescribed by section 62, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

[Su... by V... 1888,]

Endorsements on documents rejected as inadmissible in evidence.

142. Where a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in section 141, sub-section (1), clauses (*a*), (*b*) and (*c*), **together with** a statement of its having been rejected, and the endorsement shall be signed ***or initialled*** by the Judge.

Court may order any document to be impounded.

143. Notwithstanding anything contained in section 62, section 142A, sub-section (2), or section 141A, sub-section (3), the Court may, if it sees sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the Court, for such period and subject to such conditions as the Court thinks fit.

Return of admitted documents.

144. (**1**) Any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record, shall, unless the document is impounded under section 143, be entitled to receive back the same,—

(*a*) if the suit is one in which an appeal ***or review*** is not allowed, when the suit has been disposed of, and,

(**b**) if the suit is one in which an appeal ***or review*** is allowed, when the time for preferring an appeal ***or applying for a review*** has elapsed ***and no*** appeal has been preferred ***or review applied for, or, if an appeal has been preferred or review applied for,*** when the appeal ***or application*** has been disposed of:

Provided, first, that, on an application made by a party to the suit signifying his intention to prefer an appeal or to apply for a view, any document placed on the record may be retained by the Court for such time as it may consider necessary:

Provided, secondly, that a document may be returned at any time earlier than that prescribed by this section if the person applying therefor delivers to the proper officer a certified copy to be substituted for the original ***and undertakes to produce the original if required to do so:***

Provided, thirdly, that no document shall be returned which, by force of the decree, has become ***wholly*** void or useless.

(**2**) On the return of a document admitted in evidence a receipt shall be given by the ***person*** receiving it.

V O

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XI.—Of Discovery and of the Admission, Inspection, Production, Impounding and Return of Documents.—Section 145. Chapter XII.—Of the Settlement of Issues.—Sections 146-150.)

Provisions as to documents applied to material objects.

145. The provisions herein contained as to documents shall, so far as they are applicable, be deemed to apply to all other material objects capable of being produced as evidence.

CHAPTER XII.

OF THE SETTLEMENT OF ISSUES.

Framing of issues.

146. (*1*) Issues arise when a material proposition of fact or of law is affirmed by the one party and denied by the other.

(*2*) Each material proposition affirmed by the one party and denied by the other shall form the subject of a distinct issue.

(*3*) Issues are of two kinds,—

(*a*) issues of fact, and

(*b*) issues of law.

(*4*) At the first hearing of the suit the Court shall, after reading the plaint and the written statements (if any), and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record or cause to be recorded the issues on which the right decision of the case appears to the Court to depend.

(*5*) Where issues both of fact and of law arise in the same suit and the Court is of opinion that the case may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

(*6*) Nothing in this section shall be deemed to require the Court to frame and record or cause to be recorded issues where the defendant at the first hearing of the suit makes no defence.

Explanation.—Material propositions are those propositions of fact or of law which a plaintiff must allege in order to show a right to sue ***or a defendant must allege to establish his defence, set-off or counter-claim.***

Materials from which issues may be framed.

147. The Court may frame the issues from all or any of the following materials, namely :—

(*a*) the allegations made on oath by the parties or by any persons present on their behalf, or made by the pleaders of such parties or persons;

(*b*) the allegations made in the plaint or in the written statements (if any) tendered in the suit, or in answer to interrogatories delivered in the suit; ***and***

(*c*) the contents of the documents produced by either party.

Power to examine witnesses or documents before framing issues.

148. Where the Court is of opinion that the issues cannot be correctly framed without the examination of some person not before the Court, or without the inspection of some document not produced in the suit, it may adjourn the framing of the issues to a future day ***and hour,*** to be fixed by the Court, and may, subject to the ***law of evidence for the time being in force and to the provisions of sections 66 and 176 of this Code,*** by summons or other process, compel the attendance of any person or the production of any document by the person in whose ***possession*** it is.

Power to amend, add and strike out issues.

149. The Court may, ***after hearing the parties or their pleaders if they desire to be heard,*** at any time before passing a decree,—

(*1*) amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed, but not so as to convert a suit ***or defence*** of one character into a suit ***or defence*** of ***a*** ***different*** and inconsistent character***, and***

(*2*) strike out any issues which appear to it to have been wrongly framed or introduced.

Statement in form of issue of question of fact or law.

150. Where the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing that, upon the finding of the Court in the affirmative or in the negative of such issue,—

(*a*) a sum of money specified in the agreement, or to be ascertained by the Court or in such manner as the Court may direct, shall be paid by one of the parties to the other, or one of the parties shall be declared entitled to some right or subject to some liability specified in the agreement; or

(*b*) some property specified in the agreement and in ***controversy*** in the suit shall be delivered by one of the parties to the other or as that other may direct; or

(*c*) one or more of the parties shall do or abstain from doing some particular act specified in the agreement and relating to the matter in ***controversy.***

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XII.—Of the Settlement of Issues.—Section 151. Chapter XIII.—Disposal of the Suit at the first Hearing.—Sections 152-155. Chapter XIV.—Of Adjournments.—Sections 156, 157.)

Delivery of judgment on agreement.

151. *(1)* Where the Court is satisfied, after making such inquiry as it thinks fit,—

(*a*) that an agreement entered into under section 150 was duly executed by the parties,

(*b*) that they have a substantial interest in the decision of such question as aforesaid, and

(*c*) that the same is fit to be tried and decided,

it may proceed to record and try the issue and state its finding or other decision thereon in the same manner as if the issue had been framed by the Court; and may, upon the finding or other decision on such issue, deliver judgment according to the terms of the agreement.

(2) Upon judgment so delivered, a decree shall follow and may be executed in the same way as if the judgment had been delivered in a contested suit.

CHAPTER XIII.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

Where parties are not at issue.

152. Where at the first hearing of a suit it appears that the parties are not at issue on any question of fact or of law, the Court may at once deliver judgment.

Where one of several defendants is not at issue with plaintiff.

153. Where there are two or more defendants and any one of them is not at issue with the plaintiff on any question of fact or of law, the Court may at once deliver judgment for or against such defendant, and the suit shall proceed against the other defendants only.

Where parties are at issue.

154. *(1)* Where the parties are at issue on some question of fact or of law and issues have been framed by the Court as hereinbefore provided, if the Court is satisfied that no further argument or evidence than the parties can at once ***adduce*** is required upon such of the issues as may be sufficient for the decision of the suit, and that no injustice will result from proceeding with the suit forthwith, the Court may proceed to determine such issues, and, if the finding thereon is sufficient for the decision, may deliver judgment accordingly, whether the summons has been issued for the settlement of issues only or for the final disposal of the suit:

Provided that, where the summons has been issued for the settlement of issues only, the parties or their pleaders are present and none of them object.

(2) Where the finding is not sufficient for the decision, the Court shall postpone the further hearing of the suit, and shall fix a day ***and hour*** for the production of such further evidence, or for such further argument, as may be necessary.

Where either party fails to produce evidence.

155. Where the summons has been issued for the final disposal of the suit and either party fails, without sufficient cause, to produce the evidence on which he relies, the Court may ***proceed to try and decide the suit forthwith,*** or may, if it thinks fit, after framing and recording issues under section 146, adjourn the suit for the production of such evidence as may be necessary for its finding or other decision upon such issues.

CHAPTER XIV.

OF ADJOURNMENTS.

Adjournment of hearing and costs thereof.

156. *(1)* The Court may, if sufficient cause is shown, at any stage of the suit, allow time to the parties or to any of them, and may from time to time adjourn the hearing of the suit.

(2) In every such case, the Court shall fix a day and an hour for the further hearing of the suit, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment:

Provided that, when the hearing of evidence has once begun, the hearing of the suit shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court, for reasons to be recorded by or by direction of the Judge, finds the adjournment of the hearing ***beyond the following day*** to be necessary.

Procedure where parties fail to appear.

157. *(1)* Where, on the day and at ***or after*** the hour to which the hearing of the suit is adjourned, the parties or any of them fail to appear, ***or any costs ordered under section 156, sub-section (2), to be paid before the adjourned hearing have not been so paid when the case is called on for hearing,*** the Court may proceed to dispose of the suit in one of the modes directed in that behalf by Chapter VIII, or may make such other order as it thinks fit.

(2) Where the Court disposes of the suit in one of the modes directed in that behalf by Chapter VIII, the parties shall be entitled to all the remedies and shall be subject to all the consequences which would apply or follow if the order had been made under the terms of the said Chapter.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XIV.—Of Adjournments.—Section 158. Chapter XV.—Of the Summoning and Attendance of Witnesses.—Sections 159-162.)

158. Where any party to a suit to whom time has been allowed fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary for the further progress of the suit, for which time has been allowed, the Court may, notwithstanding such default, proceed to ***try and*** decide the suit forthwith.

Power to proceed notwithstanding default of either party.

CHAPTER XV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

159. The parties may,—

Summons to attend to give evidence or produce documents.

(a) where the summons is for the final disposal of the suit, when or at any time ***after the plaint is registered under section 64, and***

(b) where the summons is for the settlement of issues only, when or at any time after the issues are framed under section 146,

obtain, on application to the Court or to such officer as the Court may appoint in this behalf, summonses to persons whose attendance is required either to give evidence or to produce documents; ***and every such application shall give the name, description and place of residence of the witnesses, and, where a witness is summoned to produce any document, also a reasonably accurate description of the document:***

Provided that the Court may, for reasons to be recorded, refuse to issue any summons where it considers that the application for such summons has been made for the purpose of vexation or delay or to defeat the ends of justice:

Provided also that, where ***a summons has been issued for the attendance of*** any witness but ***such witness*** has failed to attend ***because the party*** summoning him ***has made*** default—

(*i*) in applying for the summons, or

(*ii*) in complying with any of the provisions of sections 160 and 162 on the subject of the payment of expenses, or

(*iii*) in furnishing any of the particulars required by ***this*** section to be specified in a summons,

within a time affording a reasonable prospect of service before the hearing ***as provided in section 78A,*** the Court shall not adjourn the hearing for the attendance of such witness or issue a fresh summons for such attendance unless it is satisfied that such adjournment or fresh summons is necessary for the ends of justice.

160. (***1***) Every party applying for a summons shall, before the summons is granted and within a period to be fixed by the Court, pay into Court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned in passing to and from the Court in which he is required to attend, and for one day's attendance.

Expenses of witnesses to be paid into Court beforehand.

(2) In determining the amount payable under sub-section (1), the Court may, in the case of any person summoned to give evidence as an expert, allow reasonable remuneration for the time occupied both in giving evidence and in performing any work of an expert character necessary for the case.

(***3***) Where the Court is subordinate to a High Court, it shall, in fixing the scale of such expenses, have regard to the rules (if any) laid down by competent authority.

161. Every sum paid into Court under section 160 shall be tendered to the person summoned at the time of service, where the summons can be served personally.

Tender of expenses to witness.

162. (***1***) Where it appears to the Court or to such officer as the Court may appoint in this behalf that the sum paid into Court under section 160 is not sufficient to cover the expenses ***or reasonable remuneration*** referred to therein, the Court may—

Procedure in case of insufficient payment or detention of witness.

(*a*) direct such further sum to be paid to the person summoned as appears to be necessary on that account, and, in case of default in payment, order such sum to be levied by attachment and sale of the moveable property of the party obtaining the summons; or

(*b*) discharge the person summoned without requiring him to give evidence; or

(*c*) both order such levy and discharge such person as aforesaid.

(***2***) Where it is necessary to detain the person summoned for a longer period than one day, the Court may, from time to time,—

(*a*) order the party at whose instance he was summoned to pay into Court such sum as is sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, order such sum to be levied by attachment and sale of the moveable property of such party; or

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XV.—Of the Summoning and Attendance of Witnesses —Sections 163-169.)

(*b*) discharge the person summoned without requiring him to give evidence; or

(*c*) both order such levy and discharge such person as aforesaid.

163. Every summons for the attendance of a person to give evidence or to produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or producing a document, or for both purposes; and any particular document which the person summoned is called on to produce shall be described in the summons with reasonable accuracy.

Time, place and purpose of attendance to be specified in summons.

164. Any person may be summoned to produce a document without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.

Summons to produce document only.

[171.] 165. Any person present in Court may, ***subject to the law of evidence for the time being in force,*** be required by the Court to give evidence or to produce any document then and there in his actual possession or power.

Power to require person present in Court to give evidence or produce document.

165A. Subject to the provisions of this Code as to attendance and appearance and to the ***law of evidence for the time being in force,*** where the Court at any time thinks it necessary to examine any person other than a party to the suit and not ***called*** as a witness by a party to the suit, the Court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, and may examine him as a witness or require him to produce such document.

Power of Court ***to*** summon as witnesses strangers to suit.

166. Every summons to a person to give evidence or produce a document shall be served as nearly as may be in the manner hereinbefore prescribed for the service of summons on the defendant; and the provisions of Chapter VII as to proof of service shall apply in the case of every summons served under this section.

Service of summons.

[172.] 167A. Subject to the provisions of this Code as to appearance and attendance and to the ***law of evidence for the time being in force,*** whoever is summoned to appear and give evidence in a suit shall attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document shall either attend to produce it, or cause it to be produced, at such time and place.

Compliance with summons.

168. (*1*) Where a person ***to whom*** a summons has been issued either ***to attend*** to give evidence or to produce a document ***or to cause it to be produced,*** fails to attend ***or to produce the document or to cause it to be produced*** in compliance with such summons, the Court shall, if the certificate of the serving-officer has not been verified by affidavit, and may, if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching the service or non-service of the summons. [Am… VII s. 16.

Procedure where witness fails to comply with summons.

(*2*) Where the Court sees reason to believe that such evidence or production is material, and that such person has, without lawful excuse, intentionally failed to attend ***or to produce the document or to cause it to be produced*** in compliance with such summons or has knowingly avoided service, it ***may*** issue a proclamation requiring him to attend to give evidence or produce the document ***or cause it to be produced*** at a time and place to be named therein; and a copy of such proclamation shall be affixed on the outer door or other conspicuous part of the house in which he ordinarily resides.

(*3*) In lieu of or at the time of issuing such proclamation, or at any time afterwards, the Court may, in its discretion, issue a warrant, either with or without bail, for the arrest of such person, and may make an order for the attachment of his property to such amount as it thinks fit, not exceeding the amount of the costs of attachment and of the fine which may be imposed under section 169, sub-section (2):

Provided that no Court of Small Causes shall make an order under this section for the attachment of immoveable property.

Explanation.—For the purposes of this section, non-payment or non-tender of a sum sufficient to defray the expenses referred to in sections 160 and 162 shall, save in the case of a person summoned by the Court under section 165A, be deemed to be a lawful excuse.

169. (*1*) Where the person whose attendance is required appears at any time after the attachment of his property and satisfies the Court—

Removal of attachment on appearance of witness.

(*a*) that he did not, without lawful excuse, intentionally fail to comply with the summons or knowingly avoid service, and,

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XV.—Of the Summoning and Attendance of Witnesses.—Sections 170B, 173, 174, 176-178A.)

(*b*) **where he has failed to attend at the time and place named in a proclamation issued under section 168,** that he had **no** notice of **such** proclamation in time to attend,

the Court shall direct that **his** property be released from attachment and make such order as to the costs of the attachment as it thinks fit.

[170.] (*2*) Where such person does not appear, or, appearing, **does not** satisfy the Court **as** aforesaid, the Court may impose upon him such fine, not exceeding five hundred rupees, as it thinks fit, having regard to his condition in life and all the circumstances of the case, and may order **his** property, or any part thereof, to be **attached and sold, or, if already attached under section 168,** to be **sold,** for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of the said fine (if any):

Provided that, **where such** person pays into Court the costs and fine **as** aforesaid, the Court shall order the property to be released from attachment.

[New.] **170B. The provisions of sections 266 to 285 with regard to the attachment of property in the execution of a decree shall, so far as they are applicable, be deemed to apply to any attachment under this Chapter as if the person whose property is so attached were a judgment-debtor.**

Mode of attachment under this Chapter.

173. (*1*) **Every** person summoned and attending to give evidence or to produce a document shall, ***unless the Court otherwise directs,*** attend ***at each hearing*** until ***the suit has been disposed of.***

When witness may depart.

(2) On the application of either party and the payment *through the* Court of all necessary expenses (if any), the Court may require any person so summoned and attending to enter into his recognizances to attend at the next or any other hearing or until the suit is disposed of *and, in default of entering into such recognizances, may order him to be detained in the civil prison.*

[174, first para., & 175.] (*3*) The provisions of sections **168 *to* 170B shall, so far as they are applicable, be deemed to apply to *any person* who, having attended in compliance with** a summons to give evidence or **to** produce a document, departs, **without lawful excuse,** in contravention of **this section.**

[174, last para.] 174. Where any **person arrested under a warrant is** brought before the Court in custody and cannot, owing to the absence of the parties or any of them, give the evidence or produce the document which he has been summoned to give or produce, the Court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and, on such bail or security being given, may release him, ***and, in default of giving such bail or security, may order him to be detained in the civil prison.***

Procedure where witness brought before Court in custody cannot give evidence or produce document.

176. No one shall be bound to attend in person to give evidence or to be examined in **any** Court unless he resides—

Attendance of witnesses in person.

(*a*) within the local limits of **the** ordinary original jurisdiction of the Court, or

(*b*) without such limits ***but*** at a place less than fifty ***miles' distance*** or,—

(i) where there is railway ***or steamer*** communication ***or other established public conveyance*** for ***any part*** of the distance, and

(ii) the ***whole journey can be accomplished in eight hours by means of such conveyance and by travelling at the rate of six miles an hour for the remaining part of the distance,***

less than two hundred miles distance from the court-house.

177. **Where** any party to a suit present in Court refuses, without lawful excuse, when required by the Court, to give evidence or to produce any document then and there in his actual possession or power, ***he shall be liable, if a plaintiff, to have his suit dismissed for want of prosecution and, if a defendant, to have his defence (if any) struck out and to be placed in the same position as if he had not appeared and answered.***

Refusal of party to give evidence when required by Court.

178. Where any party to a suit is required to give evidence or to produce a document, the provisions of this Code as to witnesses shall, so far as they are applicable, be deemed to apply to him.

Provisions as to witnesses to apply to parties.

178A. Where any process—

Payment of court-fee *and other sums in certain cases.*

(a)* has been issued under the provisions of sections *165A,* 168 *or* 169, *or

(b) any person has been ordered to be detained in the civil prison under the provisions of section 173 or 174,

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XVI.—Of the Hearing of the Suit and Examination of Witnesses.—Sections 178B, 179, 181-185.)

any court-fees or other sum which would have been leviable from ***or payable by*** a party if the process had been issued ***or the person had been ordered to be detained*** at his instance, shall be paid by such party as the Court may direct either in the decree or by separate order whether before or after the decree; and, in case of default in payment, the Court may order the sum to be levied by attachment and sale of the moveable property of ***such*** party.

CHAPTER XVI.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

[179, expln.] Right to begin.

178B. (*1*) The plaintiff shall have the right to begin, unless the defendant admits such of the facts alleged by the plaintiff as would, if unrebutted, entitle the plaintiff to a decree, ***in respect of the matters in controversy between them***, but contends that, either in point of law or on some additional facts alleged by the defendant, the plaintiff is not entitled to any part of the relief which he seeks, ***in respect of such matters,*** in which case the defendant shall have the right to begin.

(*2*) **Where the defendant raises a preliminary issue of law involving, if decided in his favour, the dismissal of the suit or so much of it as is in *controversy*, and the Court directs such preliminary issue to be separately determined, the defendant shall have the right to begin, notwithstanding that he has not admitted the facts alleged by the plaintiff save for the sake of argument upon such preliminary issue.**

Statement of case and production of evidence.

179. (*1*) On the day fixed for the hearing of the suit or on any subsequent day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

[180 as amended by VII of 1895, s. 2.] (*2*) The other party shall then state his case and produce his evidence (if any) and may then address the Court generally on the whole case.

(*3*) The party beginning may then reply generally on the whole case.

(*4*) The party beginning may, where there are several issues the burden of proving some of which lies on the other party, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other party; ***and, in*** the latter case, the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning; but the party beginning shall then be entitled to reply generally on the whole case.

(5) The Court may, in its discretion, allow any party to produce his evidence without first stating his case as required by sub-section (1) or (2).

Witnesses to be examined in open Court.

181. The evidence of the witnesses in attendance shall be taken orally in open Court in the presence, and under the personal direction and superintendence, of the Judge.

Mode of taking down evidence in appealable cases.

182. In cases in which an appeal is allowed, the evidence of each witness shall, save as provided by sections ***185, 185A and*** 189, be taken down in writing, in the language of the Court, by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer but in that of a narrative, and, when completed, shall be read over ***in open Court*** in the presence of the Judge and of the witness, **and, if the witness admits it to be correct, shall be signed by him,** and the Judge shall, if necessary, correct the same ***and cause it to be corrected,*** and shall sign it.

Evidence to be interpreted in certain cases.

183. Where the evidence is taken down under section 182 in a language different from that in which it is given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it is given.

Memorandum when evidence not taken down by Judge.

184. (*1*) Where the evidence is not taken down in writing by the Judge, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record of the suit.

(*2*) Where the Judge is unable to make such a memorandum, he shall cause the reason to be recorded and the memorandum to be made in writing from his dictation in open Court. [190

When evidence may be taken in English.

185. Where the evidence of a witness is given in English, the Judge may take it down in that language with his own hand, and, unless the parties appearing in person or the pleaders of the parties appearing by pleaders are familiar with English or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall, ***if required***

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XVI.—Of the Hearing of the Suit and Examination of Witnesses.—Sections 185A-189A., 191-192.)

by any of the parties, form part of the record of the suit.

[Added by ... of 1888, ...7.] 185A. (*1*) The Local Government may, by notification in the local official Gazette, direct, with respect to any Judge specified in the notification or falling under a description set forth therein, that evidence in cases in which an appeal is allowed ***may,*** instead of being taken down in the manner prescribed in the foregoing sections, be taken down by him with his own hand in the English language.

Power for Local Government to require evidence to be recorded in English.

(*3*) Evidence taken down under sub-section (*1*) shall be in the form mentioned in section 182, and shall be read over and signed, and, as occasion may require, interpreted and corrected, as if it were evidence taken down under that section.

186. The ***Judge*** may, of ***his*** own motion or on the application of any party or his pleader, take down, or cause to be taken down, any particular question and answer, or any objection to any question, if there appears to be any special reason for so doing.

Taking down of particular question and answer.

187. Where any oral evidence is admitted or excluded ***after*** objection taken, the ***Judge*** shall, ***at the request of the party objecting,*** note or cause to be noted upon the record the fact ***that an*** objection ***has been made.***

Noting of objections.

188. The ***Judge*** may record such remarks as ***he*** thinks material respecting the demeanour of any witness while under examination.

Remarks on demeanour of witnesses.

189. (***1***) In cases in which an appeal is not allowed, and in all other cases or classes of cases with respect to which the Court or the Judge has been specially empowered in this behalf by the Local Government with the concurrence of the High Court, it shall not be necessary to take down the evidence of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make, either in the language of the Court or in English, a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

Mode of taking down evidence in non-appealable and certain other cases.

[190.] (***2***) Where the Judge is unable to make such a memorandum, he shall cause the reason to be recorded and the memorandum to be made in writing from his dictation in open Court.

189A. Nothing in this Chapter shall be deemed to limit or otherwise affect the inherent power of the Court—

Saving of inherent powers of Court.

(a) to stop any statement, address or reply of any party, or

(b) to refuse either to allow any question or to record any evidence,

where and in so far as such statement, address, reply, question or evidence is unreasonable, irrelevant, prolix, vexatious, frivolous, obstructive, scandalous or disrespectful.

191. (*1*) Where the Judge taking down any evidence, or causing any memorandum to be made, under this Chapter is prevented by death, transfer or other cause from concluding the trial of the suit, any successor to such Judge may deal with such evidence or memorandum as if he himself had taken it down or caused it to be made, and proceed with the suit from the stage at which his predecessor left it. [Amended by VII of 1888, s. 18.]

Power to deal with evidence taken down by another Judge.

(*2*) The provisions of sub-section (*1*) shall, so far as they are applicable, be deemed to apply to ***evidence taken in*** a suit transferred under section 25 ***or on an issue or issues referred under section 566:***

Provided that a Court transferring a suit under section 25 may, if it thinks fit, direct that the Court to which the suit is transferred shall recall all or any of the witnesses who have been examined, and take their evidence afresh.

192. (***1***) Where a witness is about to leave the jurisdiction of the Court, or other sufficient cause is shown to the satisfaction of the Court why his evidence should be taken immediately, the Court may, on the application of ***any*** party or of the witness, at any time after the institution of the suit, take the evidence of such witness in manner provided ***by this Code.***

Power to examine witness immediately.

(***2***) Where such evidence is not taken forthwith and in the presence of the parties, such notice of the day and hour fixed for the examination as the Court thinks sufficient shall be given to the parties.

(***3***) The evidence taken under this section shall be read over to the witness, and, if he admits it to be correct, shall be signed by him, and the Judge shall, if necessary, correct the same ***or cause it to to be corrected,*** and shall sign it, and it may then be read at any hearing of the suit.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XVI.—Of the Hearing of the Suit and Examination of Witnesses.—Sections 193, 193A. Chapter XVII.—Of Affidavits.—Sections 194-197.)—Chapter XVIII.—Of Judgment and Decree.—Sections 198, 199A.)

[Amended by VII of 1888, s. 19.] Court may recall and examine witness.

193. The Court may, at any stage of the suit, recall any witness who has been examined, and may, subject to the ***law of evidence for the time being in force,*** put such questions to him as it thinks fit.

[New.] Evidence given in connected or *analogous suits.*

193A. Where a witness is required to give evidence in two or more connected or *analogous* suits *in the same Court,* the Court may, in its discretion, direct that he shall be examined once only and that one record of such examination shall be made in accordance with the provisions of this Chapter; and the evidence so recorded shall be evidence in each of the suits, and the record thereof shall *be deemed to* form part of the record of each :

Provided that the parties in each of the suits shall be entitled to exercise, so far as may be, all such rights as they might have exercised, under this Code or any other enactment or rule of law for the time being in force, if such witness had been separately examined in the said suit.

CHAPTER XVII.

OF AFFIDAVITS.

Power to order any point to be proved by affidavit.

194. Any Court of first instance and any appellate Court may, at any time, for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable :

Provided that, where it appears to the Court that either party in good faith desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.

Evidence by affidavit in applications.

195. *(1)* Upon any application evidence may be given by affidavit, but the Court may, at the instance of either party, order the attendance for cross-examination of the declarant.

(2) Such attendance shall, unless the declarant is exempted from personal appearance in Court or the Court otherwise directs, be in Court.

Matters to which affidavits to be confined.

196. *(1)* Affidavits shall be confined to such facts as the declarant is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that reasonable grounds therefor are set forth.

(2) The costs of every affidavit which unnecessarily sets forth matters of hearsay, or argumentative matter, or copies of or extracts from documents, shall, unless the Court otherwise directs, be paid by the party producing the same.

Oath by whom to be administered to declarant.

197. In the case of any affidavit under this Code—

(*a*) any Court or Magistrate, or

(*b*) any officer appointed by a High Court in this behalf, or

(*c*) any officer appointed by any other Court which the Local Government has generally or specially empowered to make such appointments,

may administer the oath to the declarant.

CHAPTER XVIII.

OF JUDGMENT AND DECREE.

Judgments to be in writing and to be delivered. [198 and 200.]

198. *(1)* The judgment in every suit ***or other proceeding triable as a suit*** in a Civil Court of original jurisdiction shall be ***reduced to writing and*** shall be delivered in open Court either immediately after the termination of the hearing, or at some subsequent time of which notice has been given orally or otherwise, as the Court may direct, to the parties or their pleaders.

(*2*) No judgment delivered by *a* Civil Court shall be deemed to be invalid by reason only of—

(*a*) the writing of such judgment in a language other than that prescribed by section *645* ; or

(*b*) the absence of any party or his pleader at the time notified for its delivery ; or

(*c*) any omission to give, or defect in giving, the parties or their pleaders or any of them notice of such time.

Power to deliver undelivered judgment of predecessor.

199. A Judge may deliver a judgment written, or caused to be written, ***and signed*** but not delivered by his predecessor, ***while such predecessor was holding office.***

Mode of delivery. [198

199A. *(1)* The Judgment shall be delivered either by pronouncing the whole of such judgment or by explaining its substance :

Provided that, on the oral or written application of any of the parties or their pleaders at the time of delivery, the Judge shall be bound to pronounce the whole of the judgment.

V P

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XVIII.—Of Judgment and Decree.— Sections 201-203A, 205, 205A, 206A.)

[202.] (*2*) Upon delivery of judgment in the manner prescribed by sub-section (*1*), the Judge shall forthwith sign and date it in open Court.

201. Where the judgment is written in any language other than that of the Court, it shall, if any of the parties so requires, be translated at the expense of such party into the language of the Court, and the translation shall be signed by the Judge or by such officer as the Judge may appoint in this behalf.

Translation of judgment.

202. When the judgment has been delivered ***and signed,*** it shall not be altered or added to, save to correct a verbal or arithmetical error, or to supply some accidental defect not affecting a material part of the case, or on review.

Judgment delivered *and signed* not to be materially altered or added to.

203. (*1*) The judgment of a Court of Small Causes need not contain more than the points for determination and the decision thereupon.

Contents of judgments.

(*2*) The judgment of every other Court shall contain—

(*a*) a concise statement of the case;

(*b*) the points for determination;

(*c*) the decision thereon; and

(*d*) the reasons for such decision.

[204.] (*3*) In a suit in which issues have been framed, the Court shall state its finding or other decision, with the reasons therefor, upon each separate issue, unless the finding or other decision upon any one or more of the issues is sufficient for the decision of the suit.

[New.] 203A. (*1*) Where ***any*** questions of fact or of law arise in two or more connected or ***analogous*** suits ***which were tried together,*** the Court may, in its discretion, give in detail its decision, with the reasons therefor, upon each or any of such questions in the judgment in one of such suits only.

Judgments in connected or *analogous* suits.

(*2*) Where and in so far as the Court acts under sub-section *(1)*, it shall be sufficient if any judgment wholly or partly governed by the decision so given in detail contains a clear reference to such decision:

Provided that the judgment is based upon facts declared by the law of evidence for the time being in force to be relevant to the suit and to have been duly proved.

205. (*1*) ***In every suit or other proceeding triable as a suit,*** as soon as may be after judgment has been delivered, a decree, which shall agree with the judgment, shall be drawn up.

Drawing up, dating and signing decrees.

The decree shall bear date the day on which the judgment was delivered, and such day shall be deemed to be the date of the decree within the meaning of articles ***151 to 153 and 156*** of the second schedule to the Indian Limitation Act, 1877. XV of 1877.

(*3*) Where any party to the suit is represented by a pleader, such pleader or, where such party is represented by more than one pleader, any one of such pleaders shall be required to sign the decree:

Provided that a decree shall not be deemed to be invalid merely because it does not bear the signature of any such pleader: but, in such case, the reason for such omission shall be certified on the decree.

(*4*) When the Judge has satisfied himself that the decree agrees with the judgment and that the requirements mentioned in sub-section (*3*) with regard to the signatures of pleaders have been complied with, he shall sign the decree, and the date of so signing shall be entered thereon. [205.]

(*5*) The decree shall contain— [206.]

(*a*) the number of the suit;

(*b*) the names and descriptions of the parties;

(*c*) the particulars of the claim;

(*d*) a clear specification of the relief granted or other adjudication made, whether such relief or other adjudication is preliminary to a final decree or concludes the suit; and

(*e*) the amount of the costs incurred in the suit, including any costs given under section 218 at the time of disposing of an application, and the parties by whom, and the proportions in which, such costs are to be paid.

205A. Where a Judge has vacated office after delivering judgment but without signing the decree, a decree drawn up in agreement with such judgment may be signed by his successor or, if the Court has ceased to exist, by any Judge to whom such Court was subordinate or to whom that class of business to which the decree belongs, has been transferred. [New.]

Procedure where Judge has vacated office before signing decree.

206A. (*1*) Subject to the provision of section 210, when a decree has been signed by the Judge, it shall not be altered or added to, ***by the Court which passed it,*** save to remove a variance with the judgment, or to correct any verbal or arithmetical error, or to supply an accidental defect not affecting a material part of the decree.

Amendment of decree.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XVIII.—Of Judgment and Decree.—Sections 207-211.)

[206, §§ 3 and 4.] (2) Where a variance or an error or a defect of the nature specified in sub-section (1) is found in a decree, the Court shall, subject to the provisions of sub-section (3), of its own motion or on the application of any of the parties, amend the decree in so far as may be necessary to remove such variance or to correct such error or to supply such defect:

Provided, ***first,*** that reasonable notice of the proposed amendment has been given to the parties or their pleaders:

Provided, secondly, that no appeal from the decree, which it is proposed to amend, has been preferred:

Provided, thirdly, that no decree shall be amended where and in so far as it has been executed.

(3) A decree may be amended under this section ***at any time and*** no period of limitation shall be deemed to apply ***thereto***; but the Court shall not make any amendment which, by reason of its affecting the rights of third parties or for any ***other*** cause, ***will*** be inequitable.

(4) Where a decree from which an appeal is allowed by this Code is amended under this section and, at the time of making the amendment, the period prescribed for such an appeal by the law of limitation for the time being in force has expired, an appeal shall lie in respect of so much of the decree as has been amended, in the same manner as if the amended decree had been passed on the day on which it was so amended.

207. Where the subject-matter of the suit is immoveable property, ***the decree shall contain a description of such property sufficient to identify the same,*** and, ***in case*** such property is identified by boundaries or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers.

Decree for recovery of immoveable property.

208. Where the suit is for moveable property and the decree is for the delivery of such property, the decree shall also state the amount of money to be paid as an alternative, if delivery cannot be had.

Decree for delivery of moveable property.

[Amended by VII of 1888, s. 20 (1).] 209. (1) Where and in so far as a decree (not ***being a decree for the enforcement of a mortgage or charge)*** is for the payment of money, the Court, in addition to any interest adjudged on the principal sum for any period prior to the institution of the suit, may in the decree order interest to be paid at the rate of the interest so adjudged or, for reasons to be recorded, at such rate or rates as it considers equitable,—

Interest on principal in decree for payment.

(a) upon such principal sum from the date of such institution to the date of the decree, and

(b) upon the aggregate sum so adjudged from the date of the decree to the date of ***realization*** or to such earlier date as it thinks fit.

(2) Where and in so far as such a decree is silent with respect to the payment of ***such*** interest as aforesaid, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie.

210. (1) Where and in so far as a decree (not being a decree for the enforcement of a mortgage ***or charge***) is for the payment of money, the Court may for any sufficient reason order that payment of the amount shall be postponed or shall be made by instalments, with or without interest:

Preliminary decree for money when postponed or made by instalments.

Provided that, where and in so far as the parties have themselves agreed that payment shall be postponed or shall be made by instalments, no order inconsistent with such agreement shall be made under this sub-section.

(2) After the passing of any decree of the kind referred to in sub-section (1), the Court may, on the application of the judgment-debtor, and with the consent of the decree-holder, order that payment of the amount decreed shall be postponed, or shall be made by instalments, on such terms as to the payment of interest, the attachment of the property of the ***judgment-debtor,*** or the taking of security from him, or otherwise, as it thinks fit:

Provided that no order shall be made under this sub-section where an appeal from the decree has been preferred:

Provided, also, that the Court may, for any sufficient reason and with the consent of both parties, cancel or vary any order made under this sub-section.

211. (1) Where ***the Court decrees*** possession of immoveable property ***with*** rent or ***mesne*** profits, it may—

Decree ***relating to*** mesne profits.

(a) in the case of such rent or profits accruing before the institution of the suit, either—

(i) determine the amount in the decree relating to the property, or

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XVIII.—Of Judgment and Decree.—Sections 213, 214.)

(*ii*) pass a preliminary decree for the ***possession of*** the property;

(b) in the case of such rent or profits accruing after the institution of the suit, pass a preliminary decree for possession of the property, providing therein for the payment of rent or mesne profits in respect of such property from the institution of the suit until—

(*i*) the delivery of possession to the decree-***holder,*** or

(*ii*) ***the*** relinquishment of possession by the ***judgment-debtor with notice to the decree-holder*** through the Court, or

(*iii*) the expiration of three years from the date of the decree,

whichever event first occurs, with interest thereon at such rate as the Court thinks fit.

(2) Where the Court passes a preliminary decree under sub-section (1), it shall, in continuation of the suit, inquire into the amount of the rent, mesne profits and interest (if any) due to the decree-holder and dispose thereof in a final decree.

(3) Any claim to the payment of rent or mesne profits made in the plaint and not expressly granted in a decree drawn up under this section shall be deemed to have been refused within the meaning of clause (b) of the explanation to condition V of section 13.

(4) Where the Court passes a preliminary decree in accordance with the provisions of sub-section (1), clause (b), it shall be competent to pass a final decree for the amount of any rent or mesne profits found to be due from the judgment-debtor, notwithstanding that such amount exceeds the limits of its pecuniary jurisdiction.

[amended IV of ...6, s. 2.]

213. (*1*) Where a suit is for an account of any property and for its due administration under the decree of the Court, the Court shall, before passing the final decree, pass a preliminary decree ordering such accounts and inquiries to be taken and made, and giving such other directions, as it thinks fit.

Decrees in administration-suit.

(*2*) In the administration by the Court of the property of any ***deceased*** person, if such property proves to be insufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities proveable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being, ***within the local limits of the Court in which the administration-suit is pending,*** with respect to the estates of persons adjudged ***or declared*** insolvent; and all persons who in any such case would be entitled to be paid out of such property, may come in under the ***preliminary*** decree, and make such claims against the same as they may respectively be entitled to by virtue of this Code.

Decree in pre-emption-suit.

214. Where ***the Court decrees a claim to*** pre-emption in respect of a particular sale of property and the purchase-money has not been paid into Court, the decree shall—

(*a*) specify a day on or before which ***the purchase-money*** shall be so paid, and

(*b*) declare that on such payment of ***such*** purchase-money together with the costs (if any) decreed against ***the plaintiff, on or before the day referred to in clause (a) or such other day as may be specified in the decree (if any) of the Appellate Court,—***

(i) the defendant shall execute and cause to be registered any instrument which by any law for the time being in force is required to be executed and registered, and

(*ii*) the plaintiff shall obtain possession of the property, ***his title to which shall be deemed to accrue from the date of such payment;***

but that, if ***the purchase-***money and ***the*** costs ***(if any)*** are not so paid, the suit shall ***be*** dismissed with costs.

(2) Where the Court has adjudicated upon rival claims to pre-emption, the decree shall declare—

(a) if and in so far as the claims decreed are equal in degree, that the claim of each pre-emptor complying with the provisions of sub-section (1) shall take effect in respect of a proportionate share of the property including any proportionate share in respect of which the claim of any pre-emptor failing to comply with

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XVIII.—Of Judgment and Decree.— Sections 215-217. Chapter XIX.—Of Costs.—Sections 218, 219.)

the said provisions would, but for such default, have taken effect; and,

(b) if and in so far as the claims decreed are different in degree, that the claim of the inferior pre-emptor shall not take effect unless and until the superior pre-emptor has failed to comply with the said provisions.

Decrees in suit for dissolution of partnership.

215. Where a suit is for the dissolution of a partnership, the Court, before passing a final decree, may pass a preliminary decree ***declaring the rights of the parties,*** fixing the day on which the partnership shall stand dissolved, and directing such accounts to be taken, and other acts to be done, as it thinks fit.

Decrees in suit for account between principal and agent.

215A. In a suit for an account of pecuniary transactions between a principal and agent, and in any other suit not hereinbefore provided for, where it is necessary, in order to ascertain the amount of money due to or from any party, that an account should be taken, the Court shall, before passing its final decree, pass a preliminary decree directing such accounts to be taken as it thinks fit.

[New.]

Decree in suit for partition of property or separate possession of a share *therein.*

215B. Where the Court passes a decree for the partition of ***property*** or for the separate possession of a share therein, ***then,—***

(1) if and in so far as the decree relates to an estate assessed as such to the payment of undivided revenue to the Government ***and the partition or separate possession is to affect the joint responsibility for the payment of such revenue,*** the decree shall declare the rights of the several parties interested in the property, but shall direct such partition or separation to be made by the Collector, or by any gazetted subordinate of the Collector ***deputed by him in this behalf,*** in accordance with such ***declaration*** and with the provisions ***of*** section 265;

(2) if and in so far as—

(a) such decree relates to any such estate as is referred to in clause (1), but the partition or separate possession is not to affect the joint responsibility for the payment to the Government of any undivided revenue to which such estate is assessed as such, or

(b) such decree relates to any other immoveable property or to moveable property,

the Court may, if the partition or separation cannot be conveniently made without further inquiry, pass a preliminary decree declaring the rights of the several parties interested in the property and deciding whether the partition or separation to be made in accordance with such ***declaration*** is to be made by the Court itself or by a Commissioner appointed under the provisions of section 396.

Decree where set-off ***or counter-claim*** allowed.

216. ***(1)*** Where the defendant is allowed a set-off ***or counter-claim*** against the claim of the plaintiff, the decree shall state ***the relief, if any, granted to the plaintiff and the relief, if any, granted to the defendant, and shall, where and in so far as both the reliefs are for the payment of money,*** be for the recovery of any sum which appears to be due to either party. [Amend. VII of s. 21.]

(2) The decree of the Court, with respect to any sum so awarded to the defendant, shall have the same effect, and be subject to the same rules in respect of appeal or otherwise, as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

Certified copies of judgment and decree to be furnished.

217. Certified copies of the judgment and decree shall be furnished to ***any party or, if he is dead, to his legal representative,*** on application to the Court and at ***his*** expense.

CHAPTER XIX.

OF COSTS.

Costs of applications.

218. When disposing of any application under this Code, the Court may give to either party the costs of such application, or may reserve the consideration of such costs for any future stage of the proceedings.

Judgment ***or order*** to direct by whom costs to be paid.

219. ***Every*** judgment ***and every order disposing of any proceeding other than a suit*** shall direct by whom the costs of each party, **or any part or proportion thereof,** are **or is** to be paid, whether by

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XIX.—Of Costs.—Sections 220-222A.)
Chapter XX.—Of the Execution of Decrees and Orders.—Sections 222B-223A.)

the party himself or by any other party to the suit ***or proceeding.***

220. (*1*) ***Save as otherwise provided by this Code,*** the Court shall have full power to give and apportion the costs of every application, suit ***or other proceeding,*** in such manner as it thinks fit, and the fact that the Court has no urisdiction to try a case shall be no bar to the xercise of such power:

Power of Court as to costs.

26 (2).] ***Provided that a*** defendant though unsuccessful, shall be entitled to his costs occasioned by joining, ***under the provisions of section 26, sub-section (1),*** any person who is not found entitled to relief, unless the Court, in disposing of the costs of the suit, otherwise directs:

Provided ***also*** that, where the Court directs that the costs of any application, suit ***or other proceeding,*** shall not follow the event, it shall record its reasons or cause them to be recorded.

(*2*) No separate suit shall lie for the recovery of costs awardable under this Code; but every order relating to such costs and not forming part of a decree may be executed as if it were a decree for the payment of money:

Provided that, where proceedings to enforce ***any*** such order have not been taken and payment of the costs awarded therein has not been made, ***such*** order shall be included in ***and form part of*** the final decree ***or order*** in the suit ***or other proceeding in accordance with the provisions of section 205, sub-section (5), clause (f).***

221. The Court may direct that the costs payable to one party by another shall be set-off against a sum which is admitted or is found in the suit ***or other proceeding*** to be due from the former to the latter.

Set-off of costs against sum admitted or found to be due.

222. The Court may give interest on costs at any rate not exceeding six per cent. per annum, and may direct that costs, with or without interest, be paid out of, or charged upon, the subject-matter of the suit.

Interest on costs and payment out of subject-matter.

[New.] 222A. (*1*) Save as provided by sub-sections (*2*) and (*3*), the order of the Court giving or refusing costs or interest thereon shall be final ***and conclusive.***

Finality of order as to costs.

(*2*) An appeal on a matter of costs only shall lie from an order or decree giving or refusing costs where such order or decree is appealable under this Code and involves a question, not of the mere exercise of discretion, but of the principle upon which costs may be given or refused; ***and*** the order of the Appellate Court upon such appeal shall, subject to the provisions of sub-section (3), be final ***and conclusive.***

(*3*) Where an appeal is made on other grounds from any order or decree appealable under this Code, the parties shall, in respect of any order as to costs included therein and forming part thereof, have the same right of appeal and objection as they have in respect of such other grounds.

CHAPTER XX.

OF THE EXECUTION OF DECREES *AND ORDERS.*

General.

222B. The provisions of this Chapter relating to the execution of decrees shall, so far as they are applicable, be deemed to apply to the execution of orders.

Application of Chapter to orders.

222C. The ***words*** "Court which passed a decree" or words to that effect, ***wherever they occur in this Chapter,*** shall, unless there is anything repugnant in the subject or context, be deemed to include,— [649, *expl.*]

Definition of Court which passed a decree.

(*a*) where the decree to be executed has been passed in appeal, the Court ***of first instance,*** and

(*b*) where the Court which passed the decree to be executed has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed was instituted at the time of making the application for the execution of the decree, would have jurisdiction to try such suit.

Courts by which decree may be executed.

223. A decree may be executed either by the Court which passed it, or by the Court to which ***a precept*** is ***issued*** under the provisions hereinafter contained. [223, § 1.]

Court by which decree may be executed.

223A. (*1*) Save for the purpose of rateably distributing, under section 295, assets realized by sale or otherwise in execution of a decree by a Court of competent jurisdiction, no Court shall— [New.]

Jurisdiction of Court executing decree.

(*a*) execute a decree which, by reason of the value or the nature of the suit at the time of its institution, it would have been incompetent to pass, ***or***

(*b*) ***in the execution of a decree attach or sell property exceeding in value the pecuniary limits of its jurisdiction.***

(*2*) The Court which passed a decree for the enforcement of a mortgage ***or charge*** against immoveable property included therein ***or subject thereto,*** shall have power to order the sale of any such immoveable property, wherever the same may be situate.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 223B, 229, 229B, 229A, 224.)

(3) Where, after the passing of a decree in a suit for the enforcement of a mortgage ***or charge,*** the whole of the immoveable property included therein ***or subject thereto*** falls, by transfer of jurisdiction, within the local limits of the jurisdiction of another Court, the decree may be executed either by the Court which passed the decree, or by the Court within the local limits of whose jurisdiction the immoveable property falls by such transfer.

(4) Save as provided by sub-sections (2) and (3), ***and section 268F,*** no Court shall have power to execute a decree in which the subject-matter of the suit or application for execution is property situate entirely outside the local limits of its jurisdiction.

(5) Where immoveable property attached in execution of a decree for the payment of money forms one estate comprised within the local limits of the jurisdiction of two or more Courts, any one of such Courts may order the sale of the entire estate upon such conditions as it may consider reasonable and necessary for the prevention of a conflict of orders.

Explanation.—For the purposes of this section, a Court, which would have been competent to pass the decree, shall not be deemed to be incompetent to execute it merely because, by reason of the amount of rent or mesne profits ascertained for a period subsequent to the institution of the suit, the pecuniary limits of the jurisdiction of such Court are exceeded.

Execution beyond local limits of jurisdiction of Court which passed the decree.

[New] 223B. (1) Upon the application of the decree-holder, the Court which passed a decree may issue a precept to any other Court, ***or may, for reasons to be recorded, issue precepts to two or more Courts,*** which would be competent to execute such decree, ***to arrest the judgment-debtor or*** to attach ***or to sell*** any property belonging to the judgment-debtor and specified in the precept ***or precepts, and from time to time give such directions as it may think fit for the execution of such precept.***

Precepts.

[223C (4).] (2) Where a decree is passed in a suit of which the value as set forth in the plaint does not exceed two thousand rupees, and which, as regards its subject-matter, is not excepted by the law for the time being in force from the cognizance of either a Presidency or a Provincial Court of Small Causes, the Court which passed it may ***issue any such precept*** to the Court of Small Causes in Calcutta, Madras, Bombay or Rangoon, as the case may be.

(3) Nothing in this section shall be deemed to preclude a ***Civil*** Court which passed a decree in the exercise of one jurisdiction, from executing such decree in the exercise of another jurisdiction, notwithstanding that no ***precept has been issued.*** [223 C.

229. Any decree passed by a Civil Court established in any part of British India to which the provisions of this Chapter do not extend, or ***by*** any Court established or continued by the authority of the Governor General in Council in the territories of any Foreign Prince or State, may, if it cannot be executed within the jurisdiction of the Court by which it was passed, be executed in manner herein provided within the jurisdiction of any Court in British India. [Amended by VII 1888, s

Execution of decrees passed by British Courts in places to which this Chapter does not extend or in foreign territory.

229B. The Governor General in Council may, by notification in the Gazette of India, declare that the decrees passed by any Civil or Revenue Courts situate in the territories of any Native Prince or State in alliance with His Majesty and not established or continued by the authority of the Governor General in Council, r any class of such decrees, may be executed in British India as if they had been passed by the Courts of British India. [Transposed by of 1888, (1).]

Execution of decrees passed by Courts of Native States.

229A. So much of the foregoing provisions of this Chapter as empowers a Court to ***issue a precept*** for execution to another Court shall be construed as empowering a Court in British India to ***issue a precept*** for execution to any Court established or continued by the authority of the Governor General in Council in the territories of any Foreign Prince or State to which the Governor General in Council has, by notification in the Gazette of India, declared this section to apply. [Added VII of s. 24.]

Issue** of **precepts by British Indian Courts for execution to certain British Courts in foreign territory.

Questions to be determined by Court *executing decree.*

244. (1) The following questions shall be determined by order of the Court executing a decree and not by separate suit, namely :— [Amended by VII 1888, s. (2).

Questions to be determined by Court executing decree.

(*a*) questions regarding the amount of interest which the decree has made payable in respect of the subject-matter of a suit between the date of its institution and the execution of the decree ;

(*b*) any other questions arising between the parties to the suit in which the decree was passed, or their representa-

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Section 244A, 257A.)

tives, or between any party ***or his representative*** and a purchaser at a sale held in execution of the decree ***or his representative,*** and relating to the execution, discharge or satisfaction of the decree or to the stay of the execution thereof.

(2) Where any question arises as to who is the representative of a party ***or purchaser*** for the purposes of this section, the Court may either stay the execution of the decree until the question has been determined by a separate suit or itself determine the question by an order under this section.

Explanation I.—For the purposes of this section, a plaintiff whose suit has been dismissed, and a defendant against whom a suit has been dismissed, are parties to the suit.

Explanation II.—For the purposes of this section, ***the expression*** "representative", ***when used in relation to a party,*** shall be deemed to include ***the*** transferee of ***any*** interest who, so far as such interest is concerned, is bound by the decree.

Explanation III.- For the purposes of this section, an objection made by a party to the decree or by his legal representative ***or any other person against whom execution is applied for under section 234*** to the effect that property is held by him by a right or title not rendering it liable to attachment in execution of such decree is a question arising between the parties.

Explanation IV.—An objection to a sale of property in execution of a decree on the ground of fraud is a question to be determined exclusively under this section, even though the purchaser was no party to the decree.

[228 (3).] ***244A. (1) A Court to which a precept has been issued under section 223B shall have no power to entertain any objection regarding—***

Powers of Court to which precept is issued.

(a) the legality or propriety of the precept or of any directions given for the execution of such precept, or

(b) the right of the person shown in the precept as the decree-holder to execute the decree.

[228(1).] ***(2) Subject to the provisions of sub-sections (1) to (4), the Court to which a precept has been issued shall, so far as may be necessary for the execution thereof and for the decision of all questions relating to such execution, have the same powers as if the decree had been passed by itself.***

(3) Every person disobeying or obstructing the execution of the ***precept*** shall be punishable by such Court in the same manner, and its order in executing the ***precept*** shall be subject to the same rules in respect of appeal, as if the decree had been passed by itself. [228 (2).]

(4) The Court to which a precept is issued shall certify to the Court which passed the decree the result of its proceedings and shall remit to the Court which passed the decree any money or other moveable property realized in the execution of the precept or otherwise dispose of the same as the Court which passed the decree may direct. [223C(2.)]

257A. ***(1) A Court executing a decree shall not recognize or give effect to any agreement, whether made with the judgment-debtor or with any other person on his behalf,—***

Agreement as to satisfaction of judgment-debt.

(a) to give time for the satisfaction or partial satisfaction of the judgment-debt, whether such judgment-debt is or is not enforceable by law, or

(b) for the satisfaction or partial satisfaction of the judgment-debt, which provides for the payment, directly or indirectly, of any sum in excess of the sum due or to accrue due under the decree,

unless it is made with the sanction of the Court executing the decree and for a consideration which such Court deems to be, in the circumstances, reasonable.

(3) ***Every*** sum paid in contravention of the provisions of this section shall be applied to the satisfaction ***or partial satisfaction*** of the judgment-debt; and the surplus (if any) shall, ***under an order of the Court,*** be recoverable by the judgment-debtor.

(4) Every order sanctioning an agreement under sub-section (1) or directing a surplus to be recoverable under sub-section (3) shall be recorded or caused to be recorded by the Court and shall be signed by the Judge and shall be capable of execution by such Court as if it were a decree notwithstanding—

(a) that the subject-matter of the agreement is in excess of, or differs in kind from, any relief which the Court is otherwise competent to grant, or

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 258, 230, 230B, 231.)

(b) that the proceedings in execution of the decree with reference to which such order was made have terminated.

(*4*) An agreement made in contravention of the provisions of this section shall not operate as an acknowledgment of liability within the meaning of section 19 of the Indian Limitation Act, 1877.

XV of 1877.

[Amended by VII of 1888, s. 27.]

258. (*1*) Where any money payable under a decree of any kind is paid out of Court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, or where any payment is made in pursuance of an agreement of the nature mentioned in section 257A, the decree-holder shall certify such payment or adjustment to the Court whose duty it is to execute the decree, ***and the Court shall record the same or cause it to be recorded accordingly.***

Payment ***out of Court*** to decree-holder.

(*2*) The judgment-debtor also may inform the Court of such payment or adjustment, and apply to the Court to issue a notice to the decree-holder to show cause, on a day to be fixed by the Court, why such payment or adjustment should not be recorded ***as if it had been*** certified ***under sub-section (1);*** and if, after due service of such notice, the decree-holder fails to appear on the day fixed or, having appeared, fails to show cause why the payment or adjustment should not be recorded as certified, the Court shall record the same or cause it to be recorded accordingly.

(*3*) A payment or adjustment, which has not been certified ***or recorded*** as aforesaid, shall not be recognized by any Court ***executing the decree*** for the purpose of granting the decree-holder or the judgment-debtor any relief or the benefit of any defence depending upon such recognition.

(4) A payment or adjustment made in contravention of this section shall not operate as an acknowledgment of liability within the meaning of section 20 of the Indian Limitation Act, 1877.

XV of 1877.

Application for execution of decree.

[Amended by VII of 1888, s. 25.]

230. Where the holder of a decree ***or, if he is dead, his legal representative*** desires to have it executed, he shall apply to the Court which passed the decree or to the officer (if any) appointed in this behalf for ***an order*** for execution.

Application for execution.

Explanation.—For the purposes of this section an order ***issuing*** a ***precept*** for execution to another Court shall be deemed to be an order for execution.

230B. Where an application for the execution of a decree— [230

Execution barred in certain cases.

(*a*) for the payment of money or the delivery of other property, or

(*b*) for the sale of property in a suit for the enforcement of a mortgage ***or charge,*** or

(*c*) rendering the judgment-debtor personally liable if the decretal amount cannot be realized from mortgaged ***or charged*** property,

has been made under this section, and ***either granted or refused or withdrawn in circumstances not operating as a bar to future execution,*** no subsequent order for the execution of the same decree shall be made upon any fresh application ***made*** after the expiration of twelve years from—

(*i*) the date of the decree ***of which execution is*** sought, or,

(*ii*) where the decree or any subsequent order directs the payment of any money or the delivery of any property to be made at a certain date or at recurring periods, the date of the default in making the payment or delivery in respect of which the applicant seeks to enforce ***execution of*** the decree.

(*4*) Nothing in this section shall be deemed—

(*a*) to preclude the Court from ordering the execution of a decree after the expiration of the said term of twelve years, where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within twelve years immediately before the date of the application ; or

(*b*) to limit or otherwise affect the operation of article 180 of the second schedule to the Indian Limitation Act, 1877. XV of

231. (*1*) Where a decree is passed jointly in favour of two or more persons, any one or more of such persons, or his or their representatives, may, unless the decree imposes any condition to the contrary, apply—

Application for execution by joint-decree-holder.

(*a*) for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and the representatives in interest of the deceased ; or

(*b*) for the execution of the decree to the extent of his or their interest therein ***where the extent of such interest is determined by the decree.***

Q V

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 232-235.)

(2) Where the Court sees sufficient cause for allowing the decree to be executed on an application made under sub-section (1), it shall ***make*** such order as it deems necessary for protecting the interests of the other decree-holders ***or, if any of them is dead, his legal representative*** or of the judgment-debtor.

Application for execution by transferee of decree.

232. Where a decree, or, if a decree has been passed jointly in favour of two or more persons, the interest of any decree-holder in the decree, is transferred by assignment in writing or by operation of law, the transferee may apply for execution of the decree to the Court which passed it; and the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree-holder:

Provided that, where the decree or ***such*** interest as aforesaid has been transferred by assignment, notice in writing of such application shall be given to the transferor and the judgment-debtor and the decree shall not be executed until the Court has heard their objections (if any) to its execution:

Provided, also, that, where a decree for the payment of money against two or more persons has been transferred to one of them, it shall not be executed against the others, and, where an interest in such a decree has been so transferred, it shall not be executed against the others to the extent of such interest.

Transferee of decree to hold subject to equities enforceable against original decree-holder.

233. Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

Application for execution against *estate of* deceased judgment-debtor.

234. (*1*) Where a judgment-debtor dies before the decree has been fully executed, the holder of the decree may apply to the Court which passed it, for the execution of the same against the legal representative, or against the ***person in possession of the*** estate, ***or any part of the estate,*** of the deceased.

(*2*) Where the decree is executed against such legal representative ***or person as aforesaid,*** he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and, for the purpose of ascertaining such liability, the Court executing the decree may, of its own motion or on the application of the decree-holder, compel such legal representative ***or person*** to produce such accounts as it thinks fit.

(*3*) The death of a judgment-debtor before the ecree has been fully executed shall not be deemed to affect the validity, as against ***such*** legal representative or ***person as aforesaid,*** of any proceeding lawfully taken during his lifetime.

Form of application for execution.

235. ***(1)*** Where a decree is for the payment of a sum of money only, the ***decree-holder may, at the time of the*** passing ***of*** the decree, ***apply orally to the Court for immediate execution in the manner provided by section 256.*** [256.]

(*2*) ***Save as otherwise provided by sub-section (1),*** every application for the execution of a decree shall be in writing, ***signed and*** verified by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case, and shall contain in a tabular form the following particulars, namely:—

(*a*) the number of the suit;

(*b*) the names of the parties;

(*c*) the date of the decree;

(*d*) whether any appeal has been preferred from the decree and, if so, whether and how it has been decided;

(*e*) whether any, and (if any) what, payment or other adjustment of the matter in ***controversy*** such as the Court executing the decree is bound by law to recognize has been made between the parties subsequently to the decree;

(*f*) whether any, and (if any) what, previous applications have been made for the execution of the decree, the dates of such applications and their results;

(*g*) the amount of the debt or compensation, with the interest (if any) due upon the decree, or other relief granted thereby, together with particulars of any cross-decree, whether passed before or after the date of the decree sought to be enforced;

(*h*) the amount of the costs (if any) awarded;

(*i*) the name of the person against whom the execution of the decree is sought; and

(*j*) the mode in which the assistance of the Court is required, whether—

(*i*) by the delivery of ***any*** property specifically decreed, or

(*ii*) by the attachment ***or sale, or by the sale, with or without attachment,*** of ***any*** property, ***or***

(*iii*) ***by the attachment by way of garnishment of any***

The Code of Civil Procedure, 190 .

Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 236-238B, 243-243B.)

debt, or by the charging of any stock, or

(*iv*) by the arrest and ***detention in prison*** of ***any*** person, ***or***

(*v*) otherwise, as the nature of the relief sought may require.

(3) ***The Court to which an application is made under sub-section (2) may require the applicant to produce*** a certified copy of the decree.

Application for attachment of moveable property ***not in judgment-debtor's possession.***

236. Where an application is made for the attachment of any moveable property belonging to a judgment-debtor but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached, containing a reasonably accurate description of the same.

Application for attachment of immoveable property to contain certain particulars.

237. Where an application is made for the attachment of any immoveable property belonging to a judgment-debtor, it shall contain at the foot—

(*a*) a description of such property sufficient to identify ***the same and, in case such property is identified by boundaries or numbers in a record of settlement or survey, a specification of such boundaries or numbers; and***

(*b*) a specification of the judgment-debtor's share or interest ***in such property*** to the best of the belief of the applicant, and so far as he has been able to ascertain the same.

Power to require certified extract from Collector's register in certain cases.

238. Where an application is made for the attachment of any land which is registered in the office of the Collector, ***the Court may require the applicant to produce*** a certified extract from the register of such office, specifying the persons registered as proprietors of, or as possessing any transferable interest in, the land or its revenue, or as liable to pay revenue for the land, and the shares of the registered proprietors.

Security in case of order for execution of decree under appeal.

238A. Where an order is made for the execution of a decree from which an appeal is pending, the Court which passed the decree shall, on sufficient cause being shown by the appellant, require security to be given for the restitution of any property which may be taken in execution of the decree, or for the payment of the value of such property, and for the due performance of the decree or order of the Appellate Court.

Stay of execution.

Stay of execution pending reference to Court which passed decree.

238B. (1) Where any such objection as is referred to in section 244A, sub-section (1), is raised before a Court to which a precept has been issued, such Court shall stay execution and shall refer the matter for decision to the Court which passed the decree, unless, for reasons to be recorded, it considers such objection to be groundless and to be made for the purposes of obstruction and delay.

(2) Where any property has been attached or the judgment-debtor has been arrested in execution of a decree, the Court may, pending the result of the reference under sub-section (1), order the restitution of such property or the discharge of such judgment-debtor.

Stay of execution pending suit between decree-holder and judgment-debtor.

243. Where a suit is pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed ***or against whom execution of the decree is sought,*** the Court may, if it thinks fit, stay the execution of the decree until the pending suit has been decided.

Power of Court to require security and impose conditions.

243A. ***Before making any order under section 238B or under section 243, the Court may require such security from, or impose such conditions precedent or subsequent upon, the judgment-debtor as it thinks fit, and any such condition, if subsequent, shall be capable of execution as if it were a decree.***

Stay of execution of appealable decree.

243B. Where an application is made for the stay of execution of an appealable decree before the expiry of the time allowed for appealing therefrom, the Court which passed the decree may, on sufficient cause being shown by the applicant, order the execution to be stayed : [545

Provided that no order shall be made under this section unless the Court making it is satisfied—

(*a*) that substantial loss may result to the party applying for the stay of execution if the order is not made ; ***and***

(*b*) that the application has been made without unreasonable delay :

Provided also that no final order for the stay of execution of a decree shall be made under this section without previous notice to the decree-holder, ***nor until*** security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 256, 245, 246.)

Procedure in execution.

256. ***Upon*** the oral application of the decree-holder ***in the manner provided by section 235, sub-section (1), the Court, at the time of the passing of the decree,*** may order immediate execution thereof— Immediate execution.

(*a*) ***by the arrest of the judgment-debtor, prior to the preparation of a warrant, if he is within the precincts of the Court; or***

(***b***) by the issue of a warrant, directed—

(*i*) against the judgment-debtor's person if he is within the local limits of the Court's jurisdiction ; or

(*ii*) against his moveable property within the said limits.

245. **(1)** On receiving an application for the execution of a decree ***as provided by section 235, sub-section (2),*** the Court shall, **after satisfying itself that the application is not *primâ facie* barred by the law of limitation for the time being in force,** ascertain whether such of the requirements of sections 235 ***to*** 238 as may be applicable to the case have been complied with; and, if they have not been complied with, the Court may reject the application, or may allow ***the defect to be remedied*** then and there or within a time **to be** fixed by it. Procedure on receiving application for execution of decree.

(***2***) Where an application is amended under ***the provisions of*** sub-section (*1*), it shall be deemed to ***have been an application*** in accordance with law ***and*** presented ***on the date when it was first presented.***

(***3***) Every amendment made under this section shall be ***signed or initialled*** by the Judge.

(***4***) When the application is admitted, the Court shall, ***where such Court is the Court which passed the decree,*** enter in the register of **civil suits** a note of the application and the date on which it was made, and shall, **subject to the provisions hereinafter contained, proceed to the** execution of the decree according to the nature of the application :

Provided that, in the case of a decree for **the payment of** money, the value of the property attached shall, as nearly as may be, correspond with the amount for which the decree has been **passed.**

(***5***) **Every application admitted under this section shall be deemed to be in accordance with law, within the meaning of article 179 of the second schedule to the Indian Limitation Act, 1877, even though it is eventually dismissed by the Court after hearing the parties.** V of 1877.

(***6***) **Nothing in this section shall be deemed to preclude the Court from allowing at any time, upon such conditions as to the payment of costs as may appear reasonable, any amendment not converting the application into one of *a different* and inconsistent character.**

246. (***1***) **Where applications *are* made to a Court for the execution of** cross-decrees ***in separate suits*** for the payment of **two sums of** money **passed** between the same parties **and capable of execution at the same time by such Court, then,—** Execution in case of cross-decrees.

(***a***) if the two sums **are** equal, satisfaction shall be entered upon both decrees ; **and,**

(***b***) if **the two sums are unequal,** execution **may** be taken out only by the **holder of the** decree for the larger sum and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum.

(***2***) This section **shall be deemed to** apply where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as in respect of judgment-debts due by the assignee himself.

***Explanation.*—A decree obtained against the assignor in a suit pending at the date of the assignment is within this sub-section, if the assignee had notice of such suit.**

(***3***) This section **shall** not **be deemed to** apply unless—

(***a***) the decree-holder in one of the suits in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both suits ; and

(***b***) the sums due under the decrees are definite.

(***4***) **The holder of a decree passed against several persons jointly and severally may treat it as a cross-decree in relation to a decree passed against him singly in favour of one *or more* of such persons.**

Illustrations.

(*a*) A holds a decree against B for Rs. 1,000. B holds a decree against A for the payment of Rs. 1,000 in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross-decree under this section.

(*b*) A and B, co-plaintiffs, obtain a decree for Rs. 1,000 against C, and C obtains a decree for Rs. 1,000 against B. C cannot treat his decree as a cross-decree under this section.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 247, 230A, 248, 248A-248C..)

(c) A obtains a decree against B for Rs. 1,000. C, who is a trustee for B, obtains a decree on behalf of B against A for Rs. 1,000. B cannot treat C's decree as a cross-decree under this section.

(*d*) A, B, C, D and E are jointly and severally liable for Rs. 1,000 under a decree obtained by F. A obtains a decree for Rs. 100 against F singly and ***applies for execution*** to the Court in which the joint decree is being executed. F may treat his joint decree as a cross-decree under this section.

Execution in case of cross-claims under same decree.

247. Where application is made to a Court for the execution of a decree under which two parties are entitled to recover sums of money from each other, then,—

(*a*) if the two sums are equal, satisfaction for both shall be entered upon the decree; and,

(*b*) if the two sums are unequal, execution may be taken out only by the party entitled to the larger sum and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered upon the decree.

Discretion of Court to refuse execution against person and property.

230 (2).] 230A. The Court may, in its discretion, refuse execution at the same time against the person and against property of the judgment-debtor, and its order shall be final ***and conclusive.***

248. ***(1) Where*** –

Notice to show cause against execution in certain cases.

(a) an application for execution is made more than one year after the date of the decree, or

(b) where such application is made against the legal representative of a party to the decree or against the person in possession of the estate or part of the estate of any such party after his decease,

the Court executing the decree shall issue a notice to the person against whom execution is applied for requiring him to show cause, on a date to be fixed, why the decree should not be executed against him.

(2) Nothing in the foregoing sub-sections shall be deemed to preclude the Court from issuing any process in execution of a decree without issuing the notice thereby prescribed, if, for reasons to be recorded, it considers that the issue of such notice would cause unreasonable delay or would defeat the ends of justice.

(3) No suit or other proceeding shall lie, by reason merely of want of notice to any legal representative, against any person who, not being the decree-holder, has in good faith purchased property sold by order of a Court competent to execute the decree.

Duty of Court to proceed with execution if in position to proceed

248A. (*1*) Where ***and in so far as***—

(*a*) on the day and at ***or after*** the hour ***fixed by the Court***—

(*i*) in ***the*** notice issued under section 248, or

(*ii*) of its own motion or on the application of the decree-holder without the issue of such notice, or

(*b*) on any subsequent day and at or after the hour to which the hearing has been adjourned,

the Court is in a position to proceed with the execution ***when the application is called on for hearing,*** it shall, ***subject to the provisions of section 248B, proceed accordingly.***

(*2*) Where and in so far as, on any day and at or after any hour referred to in sub-section (*1*), the Court, ***by reason of the decree-holder's default in doing any necessary act,*** is not in a position to proceed ***when the application is called on for hearing,*** it shall, subject as aforesaid, either—

(*a*) dismiss the application for execution, or

(*b*) require the decree-holder to put it in a position to proceed.

Procedure where judgment-debtor objects.

248B Where, on any day and at or after any hour referred to in section 248A, sub-section (*1*), the judgment-debtor appears ***when the application is called on for hearing*** and objects to the execution, in whole or in part, of the decree, the Court shall—

(*a*) if the objection is one upon which it is bound to stay proceedings and refer the matter for disposal to the Court which passed the decree, stay proceedings and refer the matter accordingly, or

(*b*) if it is competent to dispose of the objection and allows it, dismiss the application for execution, in whole or in part, as the case may be.

Allowance of time, adjournments and notice.

248C. (*1*) The Court may allow time to the decree-holder to take steps in aid of execution or to do any act necessary to put the Court in a position to proceed with the execution of the decree.

(*2*) The Court may adjourn to a future day and hour, to be fixed by it, the hearing of any objection made by the judgment-debtor so as

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 248F, 248H, 248J, 248L, 250, 252.)

to enable the judgment-debtor or the decree-holder or both to adduce evidence or to do any other act in connection with the objection.

New.] (*3*) Notice of the day and hour fixed under sub-section (*2*) shall be given to the decree-holder and judgment-debtor in all cases, but notice of any time allowed under sub-section (*1*) shall not be given to the judgment-debtor unless the Court, for reasons to be recorded, considers such notice to be necessary or proper.

Setting aside of order dismissing for default decree-holder's application.

248F. (*1*) Where an application for execution has been dismissed on ***any such*** day ***as is referred to*** in section 248A, ***sub-section (1)***, in consequence of the decree-holder's default in doing any act necessary to put the Court in a position to proceed with the execution, the decree-holder ***or, if he is dead, his legal representative*** may apply to the Court to set aside ***the order of dismissal***, and the Court may, on sufficient cause being shown, set it aside.

(2) Unless such order of dismissal is set aside under ***sub-section (1)***, the decree-holder shall be precluded from ***obtaining***—

(*a*) ***delivery, attachment, sale, garnishment or charging of any property, debt or stock, or***

(*b*) ***arrest or detention in prison of any person, or***

(*c*) ***any other mode of execution, where and in so far as delivery, attachment, sale, garnishment or charging of such property, debt or stock or arrest or detention in prison of such person, or any other mode of execution was prayed for in the application and disallowed.***

New.] 248H. (*1*) The decree-holder may apply to the Court, on the ground that it will be useless for him to proceed with the execution by reason of the poverty or absence of the judgment-debtor or for any other cause which the Court thinks sufficient, to remove ***the application*** from the list of pending cases; and the Court, on being satisfied that the application is reasonable, shall remove the application from the said list, ***and thereupon all processes issued upon such application in execution of the decree shall come to an end.***

Removal of application.

(*2*) An order removing ***an application*** from the list of pending cases under this section shall be no bar to a fresh application if at the date of such application the decree is otherwise capable of execution.

Setting aside of order made *ex parte*.

248J. (*1*) Where, ***after notice to a judgment-debtor***, an order has been made ***ex parte*** against ***him***, the judgment-debtor ***or, if he is dead, his legal representative,*** may apply to have it set aside, and, if the Court ***is satisfied*** that ***the judgment-debtor*** was prevented by any sufficient cause from appearing and that his non-appearance has caused a failure of justice, the Court shall set aside the order and allow the ***applicant*** to make any objection to the execution of the decree. [New.]

(*2*) Unless such order is set aside, the judgment-debtor ***or, if he is dead, his legal representative*** shall be precluded from making any such objection, whether by appeal or otherwise.

Explanation.—For the purpose of determining the sufficiency of any cause assigned by the judgment-debtor for his non-appearance, the Court shall have regard to the stage of the proceedings in execution and to the notices and other processes which may, from time to time, have been issued.

Witnesses.

248L. The procedure laid down in Chapters XV and XVI as to the summoning and attendance of witnesses and the taking down of their evidence shall, so far as it is applicable, be followed in the execution of decrees. [New.]

Process for execution.

250. (*1*) When the preliminary measures (if any) required by the foregoing sections have been taken, the Court shall, unless it sees cause to the contrary, issue its ***process*** for the execution of the decree. [Amendment made by VI of 1888, s. 3, omitted as unnecessary.]

(*2*) Every such ***process*** shall bear date the day on which it is signed by the Judge or such officer as the Court may appoint in this behalf, and shall be sealed with the seal of the Court and delivered to the proper officer to be executed. [251, first part.]

(*3*) In every such ***process*** a day shall be specified on or before which it ***should be returned to the Court, and every such process shall remain in force until its actual return.***

Mode of Execution.

Enforcement of decree against legal representative.

252. (*1*) Where a decree is passed against a party as the legal representative of a deceased person, and the decree is for the payment of money out of the property of the deceased, it may be executed by the attachment and sale of any such property.

(*2*) Where no such property remains in the possession of the judgment-debtor and he fails to satisfy the Court that he has duly applied such property of the deceased as is proved to

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 253, 254, 259, 260.)

have come into his possession, the decree may be executed against him to the extent of the property ***in respect of which he has failed so to satisfy the Court,*** in the same manner as if the decree had been passed against him personally.

(3) Where such decree is other than a decree for the payment of money, it may be executed against the legal representative to the extent to which a legal representative may be required to deliver property or to perform any other act in lieu of the deceased.

Enforcement of liability of surety.

253. Where any person has become liable as surety for the performance of any decree, ***or for the restitution of any property taken in execution of a decree,*** or for the payment of any money, ***or for the fulfilment of any condition imposed on any person*** under an order of the Court in any suit or in any proceeding consequent thereon, or of any part thereof, the decree or order may be executed against him, to the extent to which he has rendered himself liable, in the manner ***herein provided for the execution of decrees:***

Provided that such notice in writing as the Court ***may*** in each case think sufficient has been given to the surety.

Decree for payment of money.

254. (*1*) Every decree or order directing a party to pay money as compensation or costs, or as the alternative to some other relief granted by the decree or order, or otherwise, may be enforced by the ***detention in the civil prison*** of the judgment-debtor or by the attachment and sale of his property in manner hereinafter provided, or by both.

(*2*) Nothing in this section shall be deemed to authorize the execution of a decree or order by the ***detention in prison*** of a judgment-debtor who has already been ***detained in prison*** for the purpose of executing the same decree or order, unless—

(*a*) the order of ***detention in prison*** has been set aside in appeal or revision, or,

(*b*) the judgment-debtor has been released on conditions with which he has failed to comply;

in either of which cases, the period during which he has been detained in prison shall be deducted from the period for which he may, under the provisions of section 342, be detained upon any subsequent application.

Decree for specific moveable property.

259. (*1*) Where a decree is for any specific moveable property or for any share in specific moveable property, it may be ***executed*** by the seizure, if practicable, of such moveable property or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as such party may appoint to receive delivery on his behalf, or, subject to the provisions of section 342, by the detention in ***the civil*** prison of the judgment-debtor, or by the attachment of his property, or by both detention and attachment, if necessary.

(*2*) Where any attachment under this section has remained in force for six months, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property, whether it is in the possession of the judgment-debtor or in that of any other person on his behalf, may be sold, and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed under section 208, such amount, and, in other cases, such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.

(*3*) Where the judgment-debtor has obeyed the decree and paid all the costs of executing the same which he is bound to pay, or where, at the end of six months from the date of the attachment, no application to have the property sold has been made, or if made, has been refused, the attachment shall cease.

Decree for specific performance or restitution of conjugal rights or recovery of wife.

260. (*1*) Where the party against whom a decree has been passed for the specific performance of a contract, or for the restitution of conjugal rights, or for the recovery of a wife, or for the performance of, or abstention from, any particular act, has had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may, subject to the provisions of section 342, be enforced by his detention in ***the civil*** prison, or by the attachment of his property, or by both.

(*2*) Where any attachment under this section has remained in force for one year, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, the property may be sold; and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and may pay the balance (if any) to the judgment-debtor on his application.

(*3*) Where the judgment-debtor has obeyed the decree and paid all the costs of executing the same which he is bound to pay, or where, at the end of one year from the date of the attachment, no application to have the property

The Code of Civil Procedure, 190 .

Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 260A., 261.)

sold has been made, ***or where such application has been made and refused,*** the attachment shall cease.

(4) Where the judgment-debtor has not obeyed the decree and the Court is of opinion that no adequate relief can be given to the decree-holder by all or any of the processes referred to in sub-sections (1) to (3), the Court may, either in lieu of or in addition to all or any of such processes and any other penalties or liabilities to which the judgment-debtor may be subject under any enactment or rule of law for the time being in force, do or cause to be done on the application of the decree-holder any act which, by its nature, can be done or caused to be done by the Court and the doing of which will afford the decree-holder such relief as aforesaid; and the cost (if any) of any such act may be recovered from the judgment-debtor as though it were included in, and formed part of, the decree.

Illustration.

A, a person of little substance, erects a building which renders uninhabitable a family mansion belonging to B. A, in spite of his detention in prison and the attachment of his property, declines to obey a decree obtained against him by B and directing him to remove the building. The Court is of opinion that no sum realizable by the sale of A's property would adequately compensate B for the depreciation in the value of his mansion. B may apply to the Court to remove the building and may recover the cost of such removal from A in the execution-proceedings.

[New. Cf. 47 & 48 Vict., c. 68, ss. 2, 3, & 4.]

Discretion of Court in executing decrees for the restitution of conjugal rights.

260A. (*1*) Notwithstanding anything in section 260, the Court, either at the time of passing a decree for the restitution of conjugal rights or at any time afterwards, may direct that the decree shall not be ***executed*** by detention in prison, or by attachment of property, or by both.

(*2*) Where the Court has made an order under sub-section (*1*), it may,—

(*a*) if the decree-holder is the wife, direct that, in the event of the decree not being obeyed within such period as may be fixed in this behalf, the judgment-debtor shall make to the decree-holder such periodical payments as may be just, and, if it thinks fit, require that the judgment-debtor shall, to its satisfaction, secure to the decree-holder such periodical payments;

(*b*) if the decree-holder is the husband and the judgment-debtor is entitled to any property, either in possession or reversion, or is in receipt of any profits or earnings, order a settlement to be made, to its satisfaction, of such property or any part thereof for the benefit of the children of the marriage or any of them, or order such part as it may think reasonable of such profits or earnings to be periodically paid by the judgment-debtor to the decree-holder or to any other person for the benefit of the children of the marriage, or any of them.

(*3*) The Court may from time to time vary or modify any order made under sub-section (*2*) for the periodical payment of money, either by altering the times of payment or by increasing or diminishing the amount, or may temporarily suspend the same as to the whole or any part of the money so ordered to be paid, and again revive the same, either wholly or in part, as it may think just.

(*4*) Any money ordered to be paid under this section may be recovered as though it were payable under a decree for the payment of money; and the provisions of section 261 shall be deemed to apply to any ***instrument*** which it may be necessary to execute for the purpose of securing any periodical payment or of making a settlement of any property ordered thereunder.

Decree for execution of *instruments*, or endorsement of negotiable instruments.

261. (*1*) Where a decree is for the execution of ***an instrument*** or for the endorsement of a negotiable instrument, and the judgment-debtor neglects or refuses to obey the decree, the decree-holder may prepare the draft of ***an instrument*** or endorsement in accordance with the terms of the decree and deliver the same to the Court.

(*2*) The Court shall thereupon cause the draft to be served on the judgment-debtor in the manner hereinbefore provided for the service of summons together with a notice in writing requiring his objections (if any) thereto to be made within such time as the Court fixes in this behalf.

(*3*) The decree-holder may also tender a copy of the draft to the Court for execution, upon the proper stamp-paper if a stamp is required by the law for the time being in force.

(*4*) On proof of such service, the Court, or such officer as it may appoint in this behalf, shall execute the copy so tendered, or may, if necessary, alter the same, so as to bring it into accordance with the terms of the decree and execute it as so altered:

Provided that, where any party objects to the draft so served as aforesaid, his objections shall, within the time so fixed, be stated in writing

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Section 263.)

and argued before the Court, and the Court shall thereupon make such order as it thinks fit, and execute, or alter and execute, the copy in accordance therewith.

(*5*) The Court, or such officer as it may appoint in this behalf, shall cause to be registered any draft or copy, as the case may be, if its registration is required by the law for the time being in force ***or the decree-holder desires to have it registered, and may make such order as it thinks fit as to the payment of the expenses of the registration, and such order may be executed as if it were a decree.***

[262.] (*6*) The execution of ***an instrument*** or the endorsement of a negotiable instrument under this section may be in the following form, ***namely :—***

"*C. D.*, Judge of the Court of
(*or as the case may be*), for *A. B.*, in a suit by *E. F.* against *A. B.*",

or in such other form as the High Court may prescribe, and shall have the same effect as the execution of the ***instrument*** or the endorsement of the ***negotiable*** instrument by the party ordered to execute or endorse the same.

Decree for immoveable property.

263. (*1*) Where a decree is for the delivery of any immoveable property, possession thereof shall be delivered to the party to whom it has been adjudged, or to such person as he may appoint to receive delivery on his behalf, and, if necessary, by removing any person bound by the decree who refuses to vacate the property.

(*2*) Possession of a joint and undivided share in immoveable property shall be delivered by affixing a copy of the warrant on some conspicuous place on the property and proclaiming, by beat of drum or other customary mode, the substance of the decree.

(*3*) Where possession of any building or enclosure is to be delivered and the person in possession, being bound by the decree, does not afford free access, the Court, through its officers, may, after giving reasonable warning and facility to any woman not appearing in public according to the customs of the country to withdraw, remove ***or open*** any lock ***or bolt*** or break open any door or do any other act necessary for putting the decree-holder in possession.

(*4*) Where there is on or in the immoveable property any moveable property (other than a growing crop belonging to the judgment-debtor) unaffected by the decree and the owner does not remove it after he has been warned and had every reasonable facility for removing it, the Court, through its officers, shall take possession thereof Such moveable property shall be kept or, if of a perishable nature, sold by such officer as may be appointed by rules made by the High Court in this behalf, and it or its proceeds, as the case may be, shall, ***on payment or after deduction of*** the charges incurred in its removal, custody, management and sale, be delivered to such person as may apply to the Court within the period of thirty days ***from the date on which the Court takes possession*** and establish his claim thereto. If no claimant appears within thirty days, such moveable property or the proceeds thereof shall be treated in accordance with the law for the time being in force relating to the disposal of unclaimed property, and shall be made over to the person entitled to the same on his application and identification.

(*5*) Where there is upon the immoveable property a growing crop unaffected by the decree and belonging to the judgment-debtor, delivery of the whole or any part of the property may, on the application of the judgment-debtor, be postponed until such crop has matured and the judgment-debtor has had every reasonable facility for gathering and removing it. Where no provision is made in the decree under section 211 for the payment of rent or mesne profits until the delivery of possession, the Court executing the decree shall, ***by order,*** determine the amount of rent or mesne profits to which the decree-holder is entitled owing to postponement of delivery of possession ***and direct the payment of such rent or mesne profits to the decree-holder.***

(*6*) On the application of the decree-holder, a notice may be issued to the judgment-debtor, requiring him to refrain from sowing the land and, within a time to be fixed by the notice, to remove any growing crop standing on it, or to show cause to the contrary. If the judgment-debtor fails to show cause to the satisfaction of the Court, the decree-holder shall be entitled to the possession of the land, with any growing crop thereon, but the judgment-debtor may be awarded such compensation for the crop as the Court executing the decree may determine. If the crop has been cut but has not been removed within the time fixed as aforesaid, the Court, through its officers, may cause it to be removed and, if the judgment-debtor refuses to take it, may sell it by auction and keep the sale-proceeds, ***after deduction of expenses,*** as money deposited by the judgment-debtor till it is claimed by and delivered to the person entitled to the same.

(*7*) Where the judgment-debtor, during the pendency of a suit or after the passing of

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 264, 265, 336.)

a decree against him for the possession of immoveable property, makes erections thereon and does not remove them within a time to be fixed by the Court, the decree-holder shall be put in possession of the immoveable property with the erections made thereon, and the judgment-debtor shall be precluded from seeking compensation in respect of such erections.

(*8*) Every order made under this section may be enforced by the Court executing the decree as ***if*** it ***were included in and*** formed part of the decree; and no suit shall lie for any relief which might have been granted by such Court under this section.

Decree for delivery of immoveable property when in occupancy of tenant.

264. Where a decree is for the delivery of any immoveable property in the occupancy of a tenant or other person entitled to occupy the same and not bound by the decree to relinquish such occupancy, the Court shall order delivery to be made by affixing a copy of the warrant on some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, the substance of the decree in regard to the property:

Provided that, if the occupant can be found, a notice in writing containing such substance shall be served upon him, and in such case no proclamation need be made.

Partition of estate or separation of share.

265. (*1*) Where a decree is for the partition of an undivided estate assessed as such to the payment of undivided revenue to the Government, or for the separate possession of a share in the whole of such an estate, the partition of the estate or the separation of the share shall, if it affects the joint responsibility for the payment of such revenue, be made by the Collector or any gazetted subordinate of the Collector ***deputed by him in this behalf, in accordance with the rights ascertained under section 215B and with*** the law (if any) for the time being in force relating—

(*a*) to the partition, or the separate possession of shares, of such estates, and

(*b*) to appeals or revision in proceedings relating to such partition or separate possession.

(*2*) The provisions of section 320, sub-sections (*2*) to (*6*), shall be deemed to apply to decrees executed by the Collector or by any gazetted subordinate of the Collector under this section.

Explanation.—For the purposes of this section, a raiyatwari-holding shall be deemed not to be an "estate".

Arrest and ***detention in the civil prison.***

Arrest and detention of judgment-debtor.

336. (*1*) A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall, as soon as practicable, be brought before the Court, and his detention may be in the ***civil*** prison of the district in which the Court ordering the detention is situate, or, where such ***civil*** prison does not afford suitable accommodation, in any other place which the Local Government may appoint for the detention of persons ordered by the Courts of such district to be detained under this Code:

Provided, first, that, for the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset or before sunrise:

Provided, secondly, that if the judgment-debtor, or any person in whose house the officer authorized to make the arrest has reason to believe the judgment-debtor is to be found, refuses access to his house, such officer may remove or open any lock or bolt and may break open the outer door of ***such*** house, ***and,*** when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe the judgment-debtor is to be found:

Provided, ***thirdly,*** that, if the room is in the actual occupancy of a woman who is not the judgment-debtor and who according to the customs of the country does not appear in public, the officer authorized to make the arrest shall give notice to her that she is at liberty to withdraw, and, after allowing a reasonable time for her to withdraw and giving her every reasonable facility for withdrawing, may enter the room for the purpose of making the arrest:

Provided, ***fourthly,*** that, where the decree, in execution of which a judgment-debtor is arrested, is a decree for the payment of money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

(*2*) The Local Government may, by notification in the local official Gazette, declare that any person or class of persons whose summary arrest might be attended with danger or inconvenience to the public shall not be liable to arrest in execution of a decree otherwise than in accordance with such procedure and after notice to such person as may be prescribed by rules made by the Local Government in this behalf.

(*3*) The Local Government may in like manner direct that, whenever a judgment-debtor is arrested in execution of a decree for

The Code of Civil Procedure, 190 .

(Part II.– Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 245A, 245B, 337, 653, 337A.)

the payment of money and is brought before the Court under this section, the Court shall inform him that he may apply under Chapter XXI to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of his applicat[illegible] and if he places all his property in the possession of a receiver appointed by the Court ***exercising jurisdiction under the said Chapter.***

(*4*) Where a notification under sub-section (*3*) is for the time being in force, if a judgment-debtor expresses his intention to apply under Chapter XXI to be declared an insolvent and furnishes security, to the satisfaction of the Court, that he will within one month so apply, ***and*** that he will appear, when called upon, ***in any proceeding upon the application or upon the decree in execution of which he was arrested,*** the Court shall release him from arrest, and, if he fails so to apply, the Court may either direct the security to be realized or commit him to ***the civil*** prison in execution of the decree.

[Added by VI of 1888 s. 2.]

245A. *Prohibition of arrest or* ***detention in prison*** *of woman in execution of decree for money.* Notwithstanding anything in section 245 or in any other section of this Code, the Court shall not order the arrest or ***detention in the civil prison*** of a woman in execution of a decree for the payment of money.

[Added by VI of 1888, s. 2.]

245B. (*1*) *Discretionary power to permit judgment-debtor to show cause against* ***detention in prison.*** Notwithstanding anything in section 245 or in any other section of this Code, where an application is for the execution of a decree for the payment of money by the arrest and ***detention in the civil prison*** of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to ***the civil*** prison.

(*2*) Where appearance is not made in obedience to a notice issued under sub-section (*1*), the Court shall, if the decree-holder so requires, issue a warrant for the arrest of the judgment-debtor.

337. *Warrant for arrest to direct judgment-debtor to be brought up.* Every warrant for the arrest of a judgment-debtor shall direct the officer entrusted with its execution to bring the judgment-debtor before the Court with all convenient speed, unless the amount which he has been ordered to pay, together with the interest thereon and the costs (if any) to which he is liable, are sooner paid.

[Added by VI of 1888, s. 8.]

653. (*1*) ***Cancellation of warrant or release of judgment-debtor from arrest on ground of illness.*** At any time after a warrant ***for the*** arrest ***of a judgment-debtor*** has been issued, the Court may cancel it on the ground of his serious illness.

(*2*) Where a judgment-debtor has been arrested, the Court may release him if, in its opinion, he is not in a fit state of health to be detained in ***the civil*** prison.

[Added by VI of 1888, s. 4.]

337A. (*1*) *Proceedings on appearance of judgment-debtor in obedience to notice or after arrest.* Where a judgment-debtor ***who has not been released under the provisions of section 336, sub-section*** (*4*), appears before the Court in obedience to a notice issued under section 245B, or is brought before the Court after being arrested in execution of a decree for the payment of money, and it appears to the Court that the judgment-debtor is unable from poverty or other sufficient cause to pay the amount of the decree or, if that amount is payable by instalments, the amount of any instalment thereof, the Court may, upon such ***conditions*** (if any) as it thinks fit, make an order disallowing the application for his arrest and detention, or directing his release, as the case may be.

(*2*) Before making an order under sub-section (*1*), the Court may take into consideration any allegation of the decree-holder touching any of the following matters, namely:—

(*a*) the decree being for a sum for which the judgment-debtor was bound in any fiduciary capacity to account;

(*b*) the transfer, concealment or removal by the judgment-debtor of any part of his property after the date of the institution of the suit in which the decree was passed, or the commission by him after that date of any other act of bad faith in relation to his property, with the object or effect of obstructing or delaying the decree-holder in the execution of the decree;

(*c*) any undue or unreasonable preference given by the judgment-debtor to any of his other creditors;

(*d*) refusal or neglect on the part of the judgment-debtor to pay the amount of the decree or some part thereof although he has, or since the date of the decree has had, the means of paying it;

(*e*) the likelihood of the judgment-debtor's absconding or leaving the jurisdiction of the Court with the object or effect mentioned in clause (*b*).

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 338, 342, 342A, 266.)

(3) While any of the matters mentioned in sub-section (2) are being considered, the Court may, in its discretion, order the judgment-debtor to be detained in ***the civil*** prison or leave him in the custody of an officer of the Court, or release him on his furnishing security, to the satisfaction of the Court, for his appearance when required by the Court.

(4) A judgment-debtor released under this section may be re-arrested.

(5) Where the Court does not make an order under sub-section (1), it shall cause the judgment-debtor to be arrested if he has not already been arrested and, subject to the other provisions of this Code, commit him to ***the civil*** prison.

Subsistence-allowance.

338. (***1***) The Local Government may prescribe scales, graduated according to rank, race and nationality, of monthly allowances payable for the subsistence of judgment-debtors.

[339] (***2***) No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into Court such sum as, having regard to the scales so fixed, the Judge thinks sufficient for the subsistence of the judgment-debtor from the time of his arrest until he can be brought before the Court.

(***3***) Where a judgment-debtor is committed to ***the civil*** prison in execution of a decree, the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the said scales, or, where no such scales have been fixed, as it considers sufficient with reference to the class to which he belongs.

(***4***) The monthly allowance fixed by the Court shall be supplied by the party on whose application the ***judgment-debtor*** has been ***arrested or detained in the civil prison,*** by monthly payments in advance before the first day of each month.

(***5***) The first payment shall be made to the proper officer of the Court for such portion of the current month as remains unexpired before the judgment-debtor is committed to ***the civil*** prison, and the subsequent payments (if any) shall be made to the officer in charge of the ***civil*** prison.

[340.] (***6***) Sums disbursed by the decree-holder for the subsistence of the judgment-debtor in ***the civil*** prison shall be deemed to be costs in the suit:

Provided that the judgment-debtor shall not be detained in ***the civil*** prison or arrested on account of any sum so disbursed.

Detention in prison and release.

342. (***1***) Every person detained in ***the civil*** prison in execution of a decree shall be so detained,—

(*a*) where the decree is for the payment of a sum of money exceeding fifty rupees, for a period of six months, and,

(*b*) in any other case, for a period of six weeks:

Provided that he shall be released from such detention before the expiration of the said period of six months or six weeks, as the case may be,— [341.]

(i) on the amount mentioned in the warrant for his detention being paid to the officer in charge of the ***civil*** prison; or

(ii) on the decree against him being otherwise fully satisfied; or

(iii) on the request of the person on whose application he has been so detained; or

(iv) on the omission by the person on whose application he has been so detained, to pay the subsistence-allowance as provided by section ***338***; or

(v) on his being declared an insolvent as provided by Chapter XXI :

Provided, also, that he shall not be released from such detention under clause (ii), clause (iii) or clause (v), without the order of the Court.

(***2***) A judgment-debtor released from detention under this section shall not ***merely by reason of his release*** be discharged from his debt, but he shall not be liable to be re-arrested under the decree in execution of which he was detained in ***the civil*** prison.

Release from the civil prison on ground of illness.

342A. (***1***) Where a judgment-debtor has been committed to ***the civil*** prison, he may be released therefrom— [653 (3) & (4).]

(*a*) by the Local Government, on the ground of his suffering from any infectious or contagious disease, or

(*b*) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

(***2***) A judgment-debtor released under this section may be re-arrested, but the period of his detention in ***the civil*** prison shall not in the aggregate exceed that prescribed by section 342.

Attachment.

ATTACHMENT GENERALLY.

Property liable to attachment and sale, ***garnishment or charging,*** in execution of decree.

266. (***1***) The following property shall be liable to attachment and sale, ***or to attachment by way of garnishment or charging, as the case may be,*** in execution of a decree, namely, lands, houses or [Amended by VII of 1888, s. 26, and XII of 1891.]

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Section 266.)

other buildings, goods, money, banknotes, cheques, bills of exchange, hundis, promissory-notes, **stock, debts,** and, **save** as hereinafter **provided,** all other saleable property, moveable or immoveable, **which belongs** to the judgment-debtor, or over which, or the profits of which, he has a disposing power **exercisable** for his own benefit, whether the same **is** held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Provided that the following particulars shall not be ***so*** liable, namely :—

(*a*) the necessary wearing-apparel, **cooking vessels** and bedding of the judgment-debtor, his wife and children, **and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;**

(*b*) **the** tools of artizans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, **and such portion of a growing crop as may have been declared to be free from liability under the provisions of section 269B;**

(*c*) houses and other buildings (***with*** the materials ***and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment***) **belonging to an agriculturist** and occupied by **him or, after his death, by his representative** ***as an agriculturist and*** **not having been specifically mortgaged, and not being bound for the satisfaction of the decree under execution;**

(*d*) books of account;

(*e*) **the** mere right to sue for damages ***or*** **mesne profits ;**

(*f*) any right of personal service ;

(*g*) the following particulars, namely :—

(i) stipends and gratuities allowed to military and civil pensioners of **the** Government,

(ii) political pensions,

(iii) **allowances (being less than salary)** of **any** public officer or of any servant of a railway company or local authority **while absent from duty, and**

(iv) **the salary or allowances equal to salary of** ***any*** **such public officer or servant** ***as is referred to in sub-head*** **(iii), while on duty,** to the extent of—

(α) the whole of the salary, where the salary does not exceed twenty rupees monthly ;

(β) twenty rupees monthly, where the salary exceeds twenty rupees and does not exceed forty rupees monthly ; and

(γ) one moiety of the salary in any other case ;

except in so far as a portion, not exceeding one moiety, of any of such particulars may be attached in execution of a decree for alimony obtained against the pensioner, public officer or servant of a railway company or local authority;

(***h***) the pay and allowances of persons to whom the **Indian** Articles of War apply ; V of 18

(***i***) **all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, 1897, for the time being applies in so far as they are declared by the said Act not to be liable to attachment;** IX of 1

(*j*) the wages of labourers and domestic servants ;

(*k*) an expectancy of succession by survivorship or other merely contingent or possible right or interest ;

(*l*) a right to future maintenance ;

(*m*) any allowance declared by any law passed under the Indian Councils Acts, **1861 and 1892,** by ***the Governor General, or by a*** Governor or a Lieutenant-Governor in Council to be exempt from liability to attachment or sale in execution of a decree ; **and,** 24 & 25 Vict., 55 & 56 c. 14.

(*n*) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which, under any law **for the time being** applicable to him, is exempt from sale for the recovery of an arrear of such revenue.

Explanation.—The particulars mentioned in clauses (*g*), (*h*), (*i*), (*j*) and (*m*) **shall not be liable** ***as aforesaid,*** whether before or after they are actually payable.

(2) Nothing in this section shall be deemed—

(*a*) to exempt houses and other buildings ***with the materials and the sites thereof and the lands immediately appurtenant there-***

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 267, 223BB, 255, 269, 269A.)

to and necessary for their enjoyment from attachment or sale in execution of decrees for rent ***of any such house, building, site or land,*** or

& 45 Vict., 35. (*b*) to affect the provisions of the Army Act or of any similar law for the time being in force.

267. (*1*) The Court may, of its own motion or on the application of the decree-holder, summon any person whom it thinks necessary, and examine him in respect ***of*** any property ***alleged to be*** liable to be seized or attached in ***execution*** of a decree, and may require the person so summoned to produce any document in his possession or power relating to such property.

Power to summon and examine person as to property liable to be seized.

(*2*) Where the Court issues a summons under this section of its own motion, it may direct by whom the cost of such summons shall be borne***, and such cost may be realized in the manner provided by section 170A.***

5 (4), v.] ***223BB. Where property is attached in the execution*** of a decree for the payment of money, the value of ***such*** property shall, as nearly as may be, correspond with the amount for which the decree has been passed.

Attachment in case of decree for money.

255. Where a decree is for mesne profits or any other matter the amount of which in money is to be subsequently determined, the property of the judgment-debtor may, before the amount due from him under the decree has been determined, be attached, as in the case of an ordinary decree for the payment of money, to a value not exceeding the amount in respect of which court-fees (if any) have been paid by the decree-holder.

Attachment in case of decree for mesne profits or other matter, amount of which to be subsequently determined.

269. Where the property to be attached is moveable property, ***other than agricultural produce,*** in the possession of ***the*** judgment-debtor, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof:

Attachment of moveable property, ***other than agricultural produce,*** in possession of judgment-debtor.

Provided that, where the property so seized is subject to speedy and natural decay, or where the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once:

Provided, also, that the Local Government may make rules for the maintenance and custody, while under attachment, of livestock and other moveable property, and that the officer attaching property under this section shall act in accordance with such rules.

269A. (*1*) Where the property to be attached is ***agricultural produce,*** the attachment shall be made by ***affixing a copy of the warrant of attachment,—***

Attachment of agricultural produce.

(a) where such produce is a growing crop, on the land on which such crop has grown, or

(b) where such produce has been cut or gathered, on the threshing-floor or place for treading out grain or the like or fodder-stack on or in which it is deposited,

and another copy on the outer door or on some other conspicuous part of the house in which the judgment-debtor ordinarily resides or, with the leave of the Court, on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain or in which he is known to have last resided or to have personally worked for gain; and the produce shall thereupon be deemed to have passed into the possession of the Court.

(*2*) ***Where agricultural produce is attached under sub-section (1),*** the Court shall make such arrangements for the custody ***thereof*** as it may deem sufficient and, for the purpose of enabling the Court to make such arrangements, every application for the attachment of a growing crop shall specify the time at which it is likely to be ***fit to be*** cut or gathered.

(*3*) Subject to such conditions as may be imposed by the Court in this behalf either in the order of attachment or in any subsequent order, the judgment-debtor may tend, cut, gather and store the ***produce*** and do any other act necessary for maturing or preserving it; and, if the judgment-debtor fails to do all or any of such acts, the decree-holder may, ***with the permission of the Court and*** subject to the like conditions, do all or any of them either by himself or by any person appointed by him in this behalf, ***and the costs incurred by the decree-holder shall be recoverable from the judgment-debtor as if they were included in, or formed part of, the decree.***

(*4*) ***Agricultural produce*** attached as a growing crop shall not be deemed to have ceased to be under attachment or to require

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 269AA, 269B, 271, 268, 268A, 268F.)

re-attachment merely because it has been severed from the soil.

(*5*) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be ***fit to be*** cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit, and may, in its discretion, make a further order prohibiting the removal of the crop pending the execution of the order of attachment.

(*6*) A growing crop which from its nature does not admit of being stored shall not be attached under this section at any time less than twenty days before the time ***at which*** it ***is likely*** to be ***fit to be*** cut or gather***ed.***

269AA. Where agricultural produce has been attached, then—

Arrangements and directions as to agricultural produce under attachment.

(*a*) ***if the presiding officer has been authorized in this behalf by the Local Government by notification in the local official Gazette, the Court shall make all arrangements and give all directions necessary for carrying out the purposes of the attachment, and,***

(*b*) ***if the presiding officer has not been so authorized, the Court shall issue a precept to the Collector, and thereupon the Collector, or any subordinate of the Collector deputed by him in this behalf, shall make all such arrangements and give all such directions as aforesaid.***

269B. The Local Government, with the previous sanction of the Governor General in Council, may, by general or special order published in the local official Gazette, declare that such

Partial exemption from attachment of *agricultural produce.*

portion of ***agricultural produce,*** or of any class of ***agricultural produce,*** as, ***in the opinion of the Court or, where a precept has been issued under section 269AA, clause (b), the Collector or any subordinate of the Collector deputed by him under the said section and clause,*** may be necessary for the purpose of providing until the next harvest for the due cultivation of the land and for the support of the judgment-debtor and his family shall, in the case of all agriculturist judgment-debtors or of any class of agriculturist judgment-debtors, be ***released*** from attachment and ***shall be free from liability to*** sale in execution of a decree.

271. (*1*) No person executing any process under this Code directing or authorizing the seizure of moveable property shall enter any dwelling-house after sunset and before sunrise.

Seizure of property in dwelling-house.

(*2*) ***Where the judgment-debtor refuses access to his house, the person executing any such process may remove or open any lock or bolt and may*** break open any outer door of a dwelling-house; ***and,*** when such person has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe any such property to be.

(*3*) ***Where a*** room ***in a dwelling-house*** is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the person executing the process shall give notice to her that she is at liberty to withdraw; and, after allowing a reasonable time for such woman to withdraw and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every precaution, consistent with these provisions, to prevent its clandestine removal.

268. (*1*) In the case of moveable property not in the possession of the judgment-debtor, other than a debt or property deposited in, or in the custody of, any Court, the attachment shall be made by a written order prohibiting the person in possession of the same from ***delivering*** it to the judgment-debtor.

Attachment of moveable property not in possession of judgment-debtor.

(*2*) A copy of every order made under this section shall be ***af***fixed in some conspicuous part of the court-house, and cop***ies*** of the same shall be ***served upon the judgment-debtor and*** the person in possession of the property. [New.]

268A. ***Where the property to be attached consists of the share or interest of the judgment-debtor in moveable property belonging to him and another as co-owners, the attachment shall be made by a notice to the judgment-debtor prohibiting him from transferring the share or interest or charging it in any way.***

Attachment of share in moveables.

268F (*1*) Where the property to be attached is the salary or allowances of a public officer or of a servant of a railway company or local authority, the Court, ***whether the judgment-debtor or the disbursing officer is or is not within the local limits of*** [New

Attachment of salary or allowances of public officer or servant of railway company or local authority.

The Code of Civil Procedure, 190 .

(Part II.— Of Suits in General.— Chapter XX.— Of the Execution of Decrees and Orders.— Sections 268G., 272, 273.)

the Court's jurisdiction, may order that the amount shall, subject to the provisions of section 266, sub-section (*1*), proviso (*g*), ***sub-heads*** (*iii*) ***and*** (*iv*), be withheld from such salary or allowances either in one payment or by monthly instalments as the Court may direct; and, upon notice of the order to such officer as the Government ***may by notification in the Gazette of India or in the local official Gazette, as the case may be,*** appoint in this behalf, the officer or other person whose duty it is to disburse such salary or allowances shall withhold and remit to the Court the amount due under the order or the monthly instalments, as the case may be.

(*2*) Where the attachable proportion of such salary or allowances is already being withheld and remitted to a Court in pursuance of a previous and unsatisfied order of attachment, the officer appointed by the Government in this behalf shall forthwith return the subsequent order to the Court issuing it with a full statement of all the particulars of the existing attachment.

(*3*) Every order made under this section, unless it is returned in accordance with the provisions of sub-section (*2*), shall, without further notice or other process, bind the Government or the railway company or local authority, as the case may be, while the judgment-debtor is within the local limits to which this Code for the time being extends and while he is beyond those limits if he is in receipt of any salary or allowances payable out of His Majesty's Indian revenues or the funds of a railway company carrying on business in any part of British India or local authority in British India; and the Government or the railway company or local authority, as the case may be, shall be liable for any sum paid in contravention of this section.

[...w. Cf. ...54 ..., c. 39, s.]

Attachment of partnership property.

268G. (*1*) ***Save as otherwise provided by this section,*** property belonging to a partnership shall not be attached or sold in execution of a decree other than a decree passed against the firm ***or against the partners in the firm as such.***

(*2*) The Court may, on the application of the holder of a decree against a partner, make an order charging the interest of such partner in the partnership property and profits with payment of the amount due under the decree and the interest thereon, and may, by the same or a subsequent order, appoint a receiver of the share of such partner in the profits (whether already declared or accruing) and of any other money which may be coming to him in respect of the partnership, and direct accounts and inquiries and make ***an order for the sale of such interest to the partner or partners of the judgment-debtor, or*** other orders as might have been directed or made if a charge had been made in favour of the decree-holder by such partner, or as the circumstances of the case may require.

(*3*) ***Where the interest of a partner is charged under sub-section*** (*2*), the other partner or partners of such partner shall be at liberty at any time to redeem ***such interest or to apply to the Court for an order directing the sale of such interest to him or them.***

(*4*) Every application for an order under sub-section (*2*) shall be served on the judgment-debtor and on his partners or such of them as are within the local limits of the jurisdiction of the Court, and such service shall be deemed to be service on all the partners, and all orders made on such applications shall be similarly served. [New. Cf. O. xlvi, r. 1a]

(*5*) Every application made by any partner of the judgment-debtor under sub-section (*3*) shall be served on the decree-holder and on the judgment-debtor, and on such of the other partners as do not join in the application and as are within the local limits of the jurisdiction of the Court, and such service shall be deemed to be service on all the partners, and all orders made on such applications shall be similarly served. [New. Cf. *ibid*, r. 1b.]

Attachment of property in custody of Court or public officer.

272. Where the property to be attached is in the custody of any Court or public officer, the attachment shall be made by a notice to such Court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Court from which the notice is issued:

Provided that, where such property is in the custody of a Court, any question of title or priority arising between the decree-holder and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such Court ***in the manner and to the extent provided by section 278.***

Attachment of decrees.

273. (*1*) Where the property to be attached in execution ***of a decree*** is a decree, either for the payment of money or for sale ***in enforcement of*** a mortgage ***or charge or for the delivery of property, whether moveable***

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 273-274.)

or immoveable, the attachment shall be made,—

(*a*) ***if the decrees were passed by the same Court, then*** by order of such Court; and

(*b*) ***if the decree sought to be attached was passed by another Court, then*** by the issue to such other Court of a notice in writing by the Court which passed the decree sought to be executed, requesting ***such other*** Court to stay the execution of its decree unless and until—

(*i*) the Court which passed the decree sought to be executed cancels the notice, or

(*ii*) the holder of the decree sought to be executed applies to the Court receiving such notice to execute its own decree.

(*2*) ***Where a Court makes an order under clause (a) of sub-section (1) or receives an application under sub-head (ii) of clause (b) of the said sub-section, it shall, on application in the manner provided by section 235, sub-section (2), proceed to execute the attached decree and, subject to the provisions of sub-section (3),*** apply the proceeds in satisfaction of the decree sought to be executed.

(*3*) ***For the purpose of applying the proceeds of the attached decree in satisfaction of the decree sought to be executed, the Court may, where such proceeds are property other than money, order such property to be sold.***

(*4*) Where the property to be attached ***in the execution of a decree*** is a decree other than a decree ***of the nature referred to in sub-section (1),*** the attachment shall be made, by a notice in writing, ***by*** the Court which passed the decree sought to be executed, to the holder of the decree sought to be attached, prohibiting him from transferring or charging in any way ***any property to which he may be entitled by virtue of such decree;*** and, where such decree has been passed by any other Court, also by sending to such other Court a notice ***of the nature referred to in sub-section (1), clause (b).***

(5) The holder of a decree sought to be executed by the attachment of another decree shall, for purposes of section 244, clause (*b*), be deemed to be the representative of the holder of the attached decree and to be entitled to execute such ***attached*** decree in any manner lawful for ***the*** holder ***thereof.***

(*6*) The holder of a decree attached under this section shall give the Court executing the decree such information and aid as may reasonably be required.

(*7*) On the application of the holder of a decree sought to be executed by the attachment of another decree, the Court making an order of attachment under this section shall give notice of such order to the judgment-debtor bound by the decree attached; and no payment or adjustment of the attached decree made by the judgment-debtor in contravention of such order after receipt of notice thereof, either through the Court or otherwise, shall be recognized by any Court ***so long as the attachment remains in force.***

(*8*) ***No decree shall be sold in execution of another decree.***

Attachment of immoveable property.

274. (*1*) Where the property to be attached is immoveable, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from ***taking any benefit from such transfer or charge.***

(*2*) ***Every order made under sub-section (1) shall remain in force—***

(*a*) ***for such period as is specified therein, or***

(*b*) ***for any further period to which the Court may, in its discretion, from time to time, extend such period, or***

(*c*) ***where within such period or further period an order for the sale of the property is made under section 304, then—***

(*i*) ***until the sale becomes absolute, or***

(*ii*) ***where the sale is set aside otherwise than under section 310A, until the sale is so set aside.***

(*3*) ***Where the sale is set aside otherwise than under section 310A, the property shall be deemed to be attached—***

(*a*) ***for a period equal to the portion (if any), remaining, when the sale was ordered, out of the period for which the property was then under attachment, or***

(*b*) ***for such other period as the Court setting aside the sale may direct.***

(*3*) Every order made under sub-section (*1*) shall be proclaimed at some place on or

VS

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 275-268AA.)

adjacent to the property to be attached by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and ***then upon a conspicuous part*** of the court-house, and also, where the property is land paying revenue to the Government, in the office of the Collector of the district in which the land is situate.

(*4*) Nothing in this section shall be deemed to require, in the execution of a decree for the enforcement of a mortgage, the attachment of any property liable by virtue of such mortgage to be sold in satisfaction of such decree.

275. Where—

Removal of attachment after satisfaction of decree.

(*a*) the amount decreed with costs and all charges and expenses resulting from the attachment of any property are paid into Court, or

(*b*) satisfaction of the decree is otherwise made through the Court, ***or certified to the Court under section 258***, or

(*c*) the decree is set aside or reversed,

the attachment shall, if ***it*** has not already ceased to be in force under the provisions of section 274, be ***deemed to be removed,*** and, in the case of immoveable property, the ***removal shall, if the judgment-debtor so desires,*** be proclaimed ***at his expense***, and a copy of ***the proclamation*** shall be affixed in the manner prescribed by section 274, sub-section (*2*).

277. Where the property attached is coin or currency notes, the Court may, at any time during the continuance of the attachment, direct that such coin or notes, or a part thereof sufficient to satisfy the decree, be paid over to the party entitled under the decree to receive the same.

Order for payment of coin or currency notes to party entitled **under decree.**

285. (*1*) Where any moveable or immoveable property not in the custody of any Court is under attachment in execution of the decrees of two or more Courts, the Court which shall determine any claim to such property and any objection to the attachment thereof shall be the Court of highest grade, or, where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

Property attached in execution of decrees of several Courts.

(*2*) ***Save as provided by sub-section*** (*3*), the operation of this section shall not be affected by the circumstance that, prior to the attachment made by a Court of higher grade, proceedings subsequent to attachment may have taken place in a Court of lower grade.

(*3*) Nothing in this section shall be deemed—

(*a*) to invalidate any proceeding taken by a Court executing one of such decrees without notice of the attachment made in execution of another of such decrees, or

(*b*) to apply when the attached property has been sold in satisfaction of any one of the decrees in execution of which it was attached.

Explanation.—For the purposes of this section, the grade of a Court depends upon the pecuniary and other limitations ***imposed upon its jurisdiction*** by any law for the time being in force.

Illustration.

A obtains a decree against B in a Provincial Court of Small Causes having jurisdiction over causes of a nature cognizable by such a Court, where the value does not exceed Rs. 500. In execution of this decree he obtains an order for the attachment of moveable property, part of which has already been attached in execution of another decree by order of a Munsif having jurisdiction in such and other causes, where the value does not exceed Rs. 1,000. During the pendency of the attachment made by the Court of Small Causes, the residue of the property is attached in execution of a third decree by the order of a Subordinate Judge having jurisdiction in all causes of a nature cognizable by a Munsif, irrespective of pecuniary value. Objections to the attachment will be determined by the Munsif and by the Subordinate Judge in respect of the property attached by each of them respectively, because, in view of the pecuniary and other limits imposed upon the jurisdiction of the Court of Small Causes, the Munsif and the Subordinate Judge are Courts of higher grade for the purposes of this section.

Garnishee Orders.

268AA. (*1*) ***Where an application is made for execution of a decree for the payment of money by the attachment by way of garnishment of any debt, the Court may, either before or after any oral examination of the judgment-debtor, and upon affidavit by the decree-holder or his authorized agent that any third person is indebted to such judgment-debtor, order that the debt owing or accruing*** from such third person (hereinafter called "the garnishee") to such judgment-debtor shall be ***liable*** to satisfy the decree; and by the same or any subsequent order it may issue a notice to the garnishee to show cause why he should not pay to the holder of such decree the debt due from him to such judgment-debtor, or so much thereof as may be sufficient to satisfy the decree ***and the costs of execution.*** [New. Cf. O. xlv, r. 1.]

Garnishee orders.

(*2*) ***Where an order under sub-section*** (*1*) ***is served upon the garnishee, or such other notice thereof as the*** [New. Cf. O. xlv, r. 2.]

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 268AA—268C.)

Court may direct is given to him, the debt to which such order relates shall be deemed to be attached.

[New. Cf. O. xiv, r. 3.] (3) Where the garnishee does not forthwith pay into Court the amount due from him to the judgment-debtor, or an amount equal to the decree, and does not dispute the debt due or claimed to be due from him to such judgment-debtor, or where he does not show cause why he should not pay to the holder of the decree the debts due from him to the judgment-debtor or so much as may be sufficient to satisfy the decree, the Court may order execution to issue, and it may issue accordingly, without any ***further*** notice, to ***realize*** the amount due from such garnishee, or so such thereof as may be sufficient to satisfy the decree ***and the costs of execution:***

Provided, first, that the absence from British India of the garnishee at the time of the application for attachment shall not in itself render a debt not liable to ***attachment:***

Provided, secondly, that, for the purposes of ***attachment,*** it shall not be necessary that the exact amount of the debt should be stated; but it shall be the duty of the Court, in all cases, to satisfy itself that the debt is due:

Provided, thirdly, that nothing in this section shall be deemed to preclude the judgment-debtor from instituting or prosecuting any suit, or from executing any decree, or from taking any other step necessary for the recovery of the debt; but he shall not receive payment ***unless*** the claim, in respect of which the debt is ***attached,*** is first satisfied.

Explanation.—For the purposes of this section, debt means a debt—

(*a*) ***which is actually due from the garnishee to the judgment-debtor, whether such debt is presently payable or is payable in the future by reason of a present obligation, and***

(*b*) ***payment of which could be effectually enforced by the judgment-debtor against the garnishee without violation of the rights of third persons;***

and it includes a debt secured by a mortgage where the mortgagee has a right to sue the mortgagor personally for the same; but nothing in this section shall be deemed to authorize the Court to realize the amount due from the mortgagor-garnishee by the sale of the mortgaged property.

Illustrations.

(a) A has obtained a decree for the payment of Rs. 100 against B, who is employed by C, a private person, at a monthly salary of Rs. 50, payable on the first day of each succeeding month. On the 8th July A applies for a garnishee order to attach in the hands of C the sum of Rs. 50 payable by C, in respect of the month of July, to B on the 1st August. The Court cannot grant the garnishee order because, on the 8th July, there is no present obligation to pay the salary which may or may not be earned by B for July.

(b) A has obtained a decree for the payment of Rs. 100 against B, who holds, as against C, D and E, three mortgages of immoveable property, each executed in consideration of a loan of Rs. 100. Under the mortgage executed by C, B is entitled to reimburse himself only by usufructuary enjoyment of the mortgaged property for a term of years. D has, under his mortgage, bound himself personally to pay the principal with interest on a future date and has agreed that, in default of such payment, B may bring the mortgaged property to sale for the debt. E's mortgage is in the same terms as D's with the further condition that interest shall be payable quarterly, and that, in default of payment of any instalment, the principal and interest shall be realizable immediately by B. In respect of C's mortgage, A is not entitled to a garnishee order because no "debt" is due or accruing from C to B. A can obtain a garnishee order against D because a "debt" is accruing by virtue of a present obligation, but the Court cannot levy the amount before the future date on which it is payable. A can, for like reasons, obtain a garnishee order against E. If E makes default in the payment of interest, the Court may levy the amount of principal and interest due on the mortgage on the date on which, by reason of such default, the amount has become immediately realizable. If E makes no such default, the Court may levy the amount of principal and interest due on the mortgage on the future date on which the amount is declared, in the absence of such default, to be payable.

Investigation of claims and objections by garnishee or third person.

268C. (***1***) Where the garnishee disputes his liability, the Court, instead of ordering execution to issue, may ***order that any issue or question necessary for determining his liability be tried or determined in any manner in which any issue or question in any suit may be tried or determined, and the order made on any issue so tried or question so determined shall have the same force and shall be subject to the same conditions as to appeal or otherwise as if it were a decree.*** [New. ibid, r

(***2***) Where in proceedings to obtain an attachment of debts it is ***alleged*** by the garnishee that the debt sought to be attached belongs to some third person, or that any third person has a lien or charge upon it, the Court may order such third person to appear and state the nature and particulars of his claim upon such debt.

(***3***) After hearing the objections (if any) of any such third person, and of any other person whom by the same or any subsequent

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 268D-276.)

order the Court may order to appear, or in case of such third person not appearing when ordered, the Court may order execution to issue to ***realize*** the amount due from such garnishee, or may proceed in the manner prescribed by ***sub-section (1)***, or may make such other order as it thinks fit, upon such terms, in all cases, with respect to the lien or charge (if any) of such third person, and to costs, as it thinks just and reasonable.

[New. Cf. ...d, rr. 2, 7.]

Payment to discharge garnishee.

268D. Payment made by, or ***realization of the amount due from***, the garnishee under any proceeding under sections 268A to 268C, shall be a valid discharge to him as against the judgment-debtor to the amount paid or ***realized***, although such proceeding or the order may be set aside.

Charging Orders.

[New. Cf. ... xlvi.]

Charging orders.

268E. (1) Where a judgment-debtor has any stock standing in his name in his own right or in the name of any person on his account or in trust for him, or has therein any ***vested*** interest, the Court may, on the application of any holder of a decree for the payment of money, order that such stock or interest, or such of them or such part thereof as it thinks fit, shall stand charged with the payment of the amount due under such decree; and the holder of the decree shall thereupon be entitled to all such remedies as he would have been entitled to if such charge had been made in his favour by the judgment-debtor:

Provided that no proceedings shall be taken to have the benefit of such charge until after the expiration of six months from the date of the order made under this section.

[Cf. 1 & 2 ... Vict., c. 110, ... 115.]

(2) Such order shall be made in the first instance ***ex parte*** and without notice to the judgment-debtor, and shall be an order to show cause only; and it shall restrain the Government or the corporation, company, partnership or firm concerned from permitting a transfer of such stock in the meantime and until it is made absolute or discharged; and if, after notice of the order to such public officer as the Government may appoint to receive notice on its behalf, or to the person or persons to be restrained by the order, or, in the case of a corporation, company, partnership or firm, to any authorized agent thereof, and before the order is made absolute or discharged, the Government, or such person or persons, or corporation, company, partnership or firm, permit any such transfer to be made, then the Government, or the person or persons, or corporation, company, partnership or firm shall be liable to the holder of the decree for the value or amount of the property so charged and so transferred, or such part thereof as may be sufficient to satisfy the decree; and no disposition of the judgment-debtor in the meantime shall be valid or effectual as against the holder of the decree.

(3) Where the judgment-debtor does not within a time specified in such order show, to the satisfaction of the Court, cause to the contrary, the order shall, on proof of notice to the judgment-debtor or his authorized agent ***and any person in whose name the stock is standing***, be made absolute:

Provided that the Court may, on the application of the judgment-debtor or of any person interested, discharge or vary such order and make such order as to costs as it thinks fit.

Special orders attaching rights to realize certain rents, profits or other debts.

268EE. ***(1) Where the property to be attached consists of rents of agricultural land, or profits payable in respect of such land, or of any other debts each of which cannot conveniently be garnished under section 268, the Court may, in its discretion and upon the application of the decree-holder, make a charging order declaring the right of the judgment-debtor to realize such rents, profits or debts to be attached for the satisfaction of the decree and, in such case, shall appoint a receiver for the realization of such rents, profits or debts in the manner prescribed in Chapter XXXVIII.***

(2) Where notice of a charging order under sub-section (1) is served upon any person by whom any rents, profits or debts to which the order relates are payable, or such other notice thereof by public proclamation or advertisement or otherwise as the Court may direct is given to him, such rents, profits or debts shall be deemed to be attached.

Restraint on Alienation.

Private alienation of property after attachment to be void.

276. Where an attachment has been made in manner aforesaid, any private ***transfer or charging*** of the property and any payment of the debt, ***interest*** or dividend, or a delivery of the share, to the judgment-debtor during the continuance of the attachment, shall, subject to the provisions of section 305, be void as against all claims enforceable under the attachment.

Explanation.—For the purposes of this section, claims enforceable under an attachment include claims for the rateable distribution of assets under section 295, ***sub-section (4)***.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 278-287.)

Investigation of Claims and Objections.

278. (*1*) Where—

Investigation of claims and objections.

(a) any property is attached in execution of a decree or is declared by a decree to be liable to be sold in satisfaction thereof, and

(b) any claim is preferred to such property or any objection is made on the ground that such property or any part thereof is not liable to be so attached or sold, or that it is liable to be attached or sold subject to a mortgage or charge,

the Court shall ***register the claim or objection as a suit between the decree-holder as plaintiff and the claimant or objector as defendant or between the claimant or objector as plaintiff and the decree-holder as defendant, as the Court may direct; and the Court shall proceed to try the claim or objection in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant or objector or by the claimant or objector against the decree-holder under the provisions of Chapter VI and shall make such order as justice and the circumstances of the case may require:***

Provided that, where the Court finds that the property is liable to be attached or sold subject to a mortgage or charge or to a right of redemption, it shall not enquire into the amount due in respect of such mortgage or charge or the amount payable by the person claiming such right of redemption.

(2) Every order disposing of a claim or objection under sub-section (1) shall have the same force and shall be subject to the same conditions as to appeal or otherwise as if it were a decree.

(*3*) Where the property to which ***any*** claim or objection ***under this section relates*** has been ***proclaimed or*** advertised for sale, the Court ordering the sale may postpone it pending the investigation of the claim or objection.

Sale.

SALE GENERALLY.

284. Any Court executing a decree may order that any property attached by it ***and liable to sale,*** or such portion thereof as may seem necessary to satisfy the decree, shall be sold, and that the proceeds of such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same.

Power to order property attached to be sold and proceeds to be paid to person entitled.

286. Save as ***otherwise*** provided by section ***295B,*** every sale in execution of a decree shall be conducted by an officer of the Court or by such other person as the Court may appoint in this behalf, and shall be made by public auction in manner hereinafter prescribed.

Sales by whom conducted and how made.

287. (*1*) Where any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court.

Proclamation of sales by public auction.

(*2*) Such proclamation shall ***be drawn up after such notice (if any) to the decree-holder and the judgment-debtor as the Court considers sufficient, and shall*** state the time and place of sale, and specify as fairly and accurately as possible—

(*a*) the property to be sold;

(*b*) the revenue assessed upon the estate or part of the estate, where the property to be sold is an interest in an estate or in part of an estate paying revenue to the Government;

(*c*) any incumbrance to which the property is liable;

(*d*) the amount for the recovery of which the sale is ordered; and

(*e*) every other thing which the Court considers material for a purchaser to know in order to judge of the nature and value of the property.

(*3*) Every application for an order for sale under this section shall be accompanied by a statement signed and verified in the manner hereinfore prescribed for the signing and verification of plaints and containing, so far as they are known to or can be ascertained by the person making the verification, the matters required by sub-section (*2*) to be specified in the proclamation.

(*4*) For the purpose of ascertaining the matters required by sub-section (*2*) to be specified in the proclamation, the Court may summon any person whom it thinks necessary to summon, and may examine him in respect to any such matters and require him to produce any document in his possession or power relating thereto.

(*5*) ***Neither*** the decree-holder ***nor the judgment-debtor*** shall be bound to furnish the Court with ***any*** estimate of the value of the property to be sold, nor shall ***any*** valuation ***of the property be entered in the proclamation.***

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 288-295A.)

(*6*) The High Court may, by notification in the local official Gazette, make rules for the guidance of the Courts in the exercise of their duties under this section.

Indemnity for Judges and public officers.

288. No Judge or other public officer shall be answerable for any error, misstatement or omission in any proclamation made under section 287, unless the same has been committed or made dishonestly.

Amended by VII of 1888, s. 29.]

Mode of making proclamation.

289. (*1*) Every proclamation under section 287 shall be made ***and published, as nearly as may be,*** in the manner prescribed by section 274, sub-section (*2*).

(*2*) Where the Court so directs, such proclamation shall also be published in the local official Gazette ***or*** in some local newspaper, ***or in both,*** and the costs of such publication shall be deemed to be costs of the sale.

(*3*) Where property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Court, otherwise be given.

Time of sale.

290. (*1*) Save in the case of property of the kind described in the first proviso to section 269, no sale under this Chapter shall, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the copy of the proclamation has been affixed in the court-house of the Judge ordering the sale.

(2) A sale made in contravention of sub-section (1) shall, on the application of the decree-holder or the judgment-debtor, be set aside.

Adjournment or stoppage of sale.

291. (*1*) The Court may, in its discretion, adjourn any sale under this Chapter, including a sale in execution of a decree for the enforcement of a mortgage ***or charge,*** to a specified day and hour, and the officer conducting any such sale may in his discretion adjourn the sale, recording his reasons for such adjournment:

Provided that, where the sale is made in, or within the precincts of, the court-house, no such adjournment shall be made without the leave of the Court:

Provided, also, that, where several properties have been placed in a list for the purpose of being sold, nothing in this section shall be deemed to require the officer conducting the sale to record his reasons for any adjournment rendered necessary merely because the sale of any particular property has not been reached.

(*2*) Where a sale is adjourned under sub-section (*1*) for a longer period than seven days, a fresh proclamation under section 289 shall be made, unless the judgment-debtor consents to waive it.

(*3*) Every sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to the officer conducting the sale, or proof is given to his satisfaction that the amount of such debt and costs has been paid into the Court which ordered the sale.

Saving of certain sales.

291A. Nothing in sections ***287 to 291*** shall be deemed to apply to any case in which the execution of ***a*** decree has been transferred, ***or a precept has been issued under clause 269AA, clause (b),*** to the Collector. [287 (8)

Defaulting purchaser answerable for loss on re-sale.

293. Any deficiency of price which may happen on a re-sale under this Chapter by reason of the purchaser's default, and all expenses attending such re-sale, shall be certified to the Court ***or to the Collector or subordinate of the Collector, as the case may be,*** by the officer ***or other person*** holding the sale or re-sale, and shall, at the instance of either the decree-holder or the judgment-debtor, be recoverable from the defaulting purchaser under the provisions of this Chapter for the execution of a decree for the payment of money.

Entry of satisfaction where decree-holder purchases.

294. Where ***property is sold in execution of a decree and is purchased by the decree-holder,*** the purchase-money and the amount to which, subject to the provisions of section 295, he may be entitled under the decree, may, if he so desires, be set-off against one another, and the Court executing the decree shall enter up satisfaction of the decree in whole or in part accordingly.

Restriction on bidding or purchase by officers.

292. No officer ***or other person*** having any duty to perform in connection with any sale under this Chapter shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold. [294 (3)]

Avoidance of processes in execution of decree set aside.

295A. Where a decree is set aside, all processes in execution thereof shall, to the extent to which it has been set aside, be deemed to be avoided:

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Section 295B-298.)

Provided that the setting aside of a decree shall not be deemed to avoid a sale made to a* BONÂ FIDE *purchaser for value, unless such purchaser is the decree-holder.

SALE OF MOVEABLE PROPERTY.

Sale of agricultural produce.

295B. (1) Where the property to be sold is agricultural produce, the sale shall be held,—

(a) if such produce is a growing crop, on or near the land on which such crop has grown, or,

(b) if such produce has been cut or gathered, at or near the threshing-floor or place for treading out grain or the like or fodder-stack on or in which it is deposited:

Provided that the Court may direct the sale to be held at the nearest place of public resort, if it is of opinion that the produce is thereby likely to sell to greater advantage.

(2) Where, on the produce being put up for sale,—

(a) a fair price, in the estimation of the person holding the sale, is not offered for it, and

(b) the owner of the produce or a person authorized to act in his behalf applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market-day,

the sale shall be postponed accordingly and shall be then completed, whatever price may be offered for the produce.

(3) Where the Court has ordered the sale of agricultural produce with respect to which a precept has been issued under section 269AA, clause (b), the Collector, or any subordinate of the Collector deputed by him under the said section and clause, shall have all the powers and perform all the duties of the Court relating to the sale of such produce.

(4) Where agricultural produce is sold by the Collector, or any subordinate of the Collector deputed by him in execution of a precept issued under section 269AA, clause (b), the proceeds, after deduction of all expenses authorized by or under this Code or any other enactment for the time being in force, shall, together with an account of the same, be transmitted to the Court.

Special provisions relating to growing crops.

295BB. (1) Where ***the property to be sold is a growing crop and*** the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of its being made ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing. [Cf. VII 1885, s. (1) and (1), (2).]

(2) Where the crop from its nature does not admit of being stored, it may be sold ***before it is cut and gathered,*** and the purchaser shall be entitled to enter on the land by himself, or by any person appointed by him in this behalf, and to do all that is necessary for the purpose of tending and cutting or gathering it.

Negotiable instruments and stock.

296. Where the property to be sold is a negotiable instrument or stock, the Court may, instead of directing the sale to be made by public auction, authorize the sale of such instrument or stock through a broker.

Other moveable property.

297. (1) In the case of moveable property other ***than a negotiable instrument or stock,*** the price of each lot shall be paid at the time of sale or as soon after as the officer ***or other person*** holding the sale directs, and in default of payment the property shall forthwith be again put up and sold.

(2) On payment of the purchase-money, the officer ***or other person*** holding the sale shall grant a receipt for the same, and the sale shall become absolute.

(3) Where the moveable property to be sold is a share in goods belonging to the judgment-debtor and a co-owner, and two or more persons, of whom one is such co-owner, respectively bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner.

Irregularity in sale of moveable property.

298. ***Where moveable property has been attached and sold in execution of a decree, the sale shall not be set aside on the ground that the attachment was not duly made or that the sale was not duly published or conducted;*** but any person sustaining any injury at the hand of any other person ***by reason of the attachment not having been duly made or the sale not having been duly published or conducted*** may institute a suit against ***such other person*** for compensation, or, if such other person is the purchaser, for the recovery of the specific property and for compensation in default of such recovery.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 299-306.)

299. (*1*) Where the property sold is moveable property of which actual seizure has been made, it shall be delivered to the purchaser.

Delivery of moveable property, debts and shares.

[300.] (*2*) Where the property sold is moveable property to which the judgment-debtor is entitled subject to the possession of some other person, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser.

[301.] (*3*) Where the property sold is a debt or **stock**, the delivery thereof shall be made by a written order of the Court prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the **stock** may be standing from making any transfer of the **stock** to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the manager, secretary or other proper officer of the company **or corporation issuing such stock** from permitting any such transfer or making any such payment to any person except the purchaser.

302. (*1*) Where ***an instrument*** or ***the*** endorsement of the party in whose name a negotiable instrument or **any stock** is standing, is required to transfer such ***negotiable*** instrument or **stock**, the **Court or such officer as it may appoint in this behalf** may execute such other document as may be necessary or endorse the ***negotiable*** instrument or the certificate of the **stock**.

Transfer of negotiable instruments and shares.

(*2*) The execution **of *an instrument*** or the endorsement **of a negotiable instrument or certificate of stock under this section may** be in the following form :—

" *A. B.* by *C. D.*, Judge of the Court of (*or as the case may be*), in a suit by *E. F.* against *A. B.*",

or in such other form as the High Court may prescribe, and shall have the same effect as the execution of the *instrument* or the endorsement of the *negotiable* instrument by the party.

(*3*) Until the transfer of such ***negotiable*** instrument or **stock**, the Court may, by order, appoint some person to receive any interest or dividend due thereon and to sign a receipt for the same; and any receipt so signed shall be as valid and effectual for all purposes as if the same had been signed by the party himself.

303. In the case of any moveable property not hereinbefore provided for, the Court may make an order vesting such property in the purchaser **or as** he may direct; and such property shall **vest accordingly.**

Vesting order in case of other property.

SALE OF IMMOVEABLE PROPERTY.

304. Sales of immoveable property in execution of decrees may be ordered by any Court other than a Court of Small Causes.

What Courts may order sales of immoveable property.

305. (*1*) Where an order for the sale of immoveable property has been made, if the judgment-debtor can satisfy the Court that there is reason to believe that the amount of the decree may be raised by **the** mortgage or lease or private sale of such property, or some part thereof, or of any other immoveable property of the judgment-debtor, the Court may, on his application, postpone the sale of **the** property comprised in the order for sale, **on such terms and** for such period as it thinks proper, to enable him to raise the amount.

Postponement of sale of immoveable property to enable judgment-debtor to raise amount of decree.

(*2*) In such case the Court shall grant a certificate to the judgment-debtor authorizing him, within a period to be mentioned therein and notwithstanding anything contained in section 276, to make the proposed mortgage, lease or sale :

Provided that all moneys payable under such mortgage, lease or sale shall be paid, not to the judgment-debtor, ***but, save in so far as a decree-holder is entitled to set-off such money under the provisions of section 294, into Court:***

Provided, also, that no mortgage, lease or sale under this section shall become absolute until it has been confirmed by the Court.

(*3*) Nothing in this section shall be deemed to apply to a sale of property directed to be sold in execution of a decree for the enforcement of a mortgage of, *or charge on,* such property.

306. (*1*) On every sale of immoveable property under this Chapter, the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per centum on the amount of his purchase-money to the officer ***or other person*** conducting the sale, and, in default of such deposit, the property shall forthwith be put up again and sold.

Deposit by purchaser of immoveable property and re-sale on default.

(*2*) ***Where the decree-holder is the purchaser and is entitled to set-off the purchase-money under section 294, the Court may dispense with the requirements of this section.***

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 307, 310, 310A, 311.)

307. (*1*) The full amount of purchase-money ***payable*** shall be ***paid*** by the purchaser **into the Court** before the Court closes on the fifteenth day ***from*** the sale of the property:

Payment in full of purchase-money of immoveable property and re-sale on default.

Provided that, in calculating the amount to be so paid into the Court, the purchaser shall have the advantage of any set-off to which he may be entitled under section 294.

[308.] (*2*) In default of payment within the period mentioned in **sub-section** (*1*), the deposit, after defraying the expenses of the sale, shall be forfeited to **the** Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

[309.] (*3*) Every re-sale of immoveable property, in default of payment of the purchase-money within the period allowed for such payment **by sub-section** (*1*), shall be made after the issue of a fresh **proclamation** in the manner and for the period hereinbefore prescribed for the sale.

310. Where the property sold is a share of undivided immoveable property **or the rights and interests of a mortgagee in such share,** and two or more persons, of whom one is a co-sharer, respectively bid the same sum **for such property or for any lot, the** bidding shall be deemed to be the bidding of the co-sharer.

Co-sharer to have preference in bidding in certain cases.

Added by [illegible] of 1894, [illegible]2.] 310A. (*1*) **Where** immoveable property has been sold under this Chapter **in execution of a decree of any kind, including a decree in a** suit for sale ***for the enforcement of a mortgage or charge,*** any person, either owning such property or holding an interest therein ***by virtue of a title acquired—***

Application to set aside sale on deposit of judgment-debt.

(*a*) ***where the property has been attached in execution of the decree, before such attachment, or***

(*b*) ***where the property is sold in pursuance of a decree declaring its liability to sale in satisfaction of a mortgage or charge, before such decree,***

may, at any time within thirty days from the date of the sale, apply to have the sale set aside on his depositing in Court,—

(*i*) for payment to the purchaser, a sum equal to five per centum of the purchase-money, and,

(*ii*) for payment to the decree-holder, ***a sum equal to the purchase-money, together with the costs of the attachment and sale:***

Provided that, if a person applies under section 311 to set aside the sale of his immoveable property, he shall not, ***unless he withdraws his application,*** be entitled to make or prosecute an application under this section.

(*2*) Where immoveable property has been sold under this Chapter by separate lots in execution of a decree, an application with regard to one or more of such lots may be made under this section.

(*3*) ***Any person making an application under this section shall be bound to implead the purchaser and the decree-holder as parties thereto; and, where the purchaser and the decree-holder are not so impleaded, the application shall be dismissed.***

(*4*) ***Where any sale is set aside by an order made under this section, the property sold shall not be liable to be again attached in execution of the same decree unless such order is set aside in appeal or otherwise.***

311. (*1*) Where any immoveable property has been sold under this Chapter in execution of a decree, the decree-holder, ***or the judgment-debtor*** or any person who is entitled to share in a rateable distribution of the assets under section 295, ***or the representative in interest of any such decree-holder, judgment-debtor or person,*** may apply to the Court to set aside the sale on the ground of a material irregularity in ***attaching the property or in*** publishing or conducting ***the sale or of the gross inadequacy of the price, and the Court may, if it thinks fit, set aside the sale:***

Application to set aside sale of immoveable property on ground of irregularity *or gross inadequacy of price.*

Provided that no sale shall be set aside on the ground of a material irregularity unless the applicant proves to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

(*3*) ***A person making an application under this section shall not make or prosecute an application under section 244 to set aside the sale either in the Court of first instance or in any Appellate Court.***

(*4*) ***No sale shall be set aside, on application made under sub-section (1) by the decree-holder or the judgment-debtor or the representative of the decree-holder or the judgment-debtor, by reason of any error or defect, even though such error or defect amounts to a material irregularity, in the proclamation of sale, where such error or defect is due to any default on the***

The Code of Civil Proce 're, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 313, 312, 315-317.)

part of such decree-holder or judgment-debtor, as the case may be, in assisting the Court, or any officer of the Court, to draw up the proclamation.

Application by purchaser to set aside sale of any property on ground of judgment-debtor having no saleable interest.

313. The purchaser at any sale in execution of a decree ***or his successor in title*** may apply to the Court to set aside the sale, on the ground that the ***judgment-debtor*** had no saleable interest therein.

Explanation.—For the purposes of this section, a mortgagor has a saleable interest in the mortgaged property, even though a decree for ***the*** enforcement of the mortgage has been obtained and although the amount due under such mortgage may exceed the value of the property.

Sale when to become absolute or be set aside.

312. (*1*) Where no application is made under section 310A, section 311 or section 313, ***or where such an application is made and disallowed,*** the sale as regards the parties to the suit and the purchaser shall become absolute.

(*2*) Where such application is made and allowed, and ***where, in the case of an application under*** section 310A, the deposit required by ***that*** section is made within thirty days from the date of sale, the Court shall pass an order setting aside the sale :

[313, prov.] Provided that no such order shall be made on an application under section 313 unless the judgment-debtor and the decree-holder have had an opportunity of being heard against the application.

(*3*) ***Where a sale has become absolute under this section and any person or his predecessor in title, having notice within the meaning of section 2 of the Transfer of Property Act, 1882,*** IV of 1882. ***of facts entitling him to make an application under section 311, has failed to make it, no Court, save in a criminal proceeding, shall grant such person any relief or give him the benefit of any defence depending upon any assertion of right which might have been alleged in any such application against the party, or the predecessor in interest of the party, against whom such relief is sought or such defence is pleaded.***

[Amended by V of 1894, s. 3.]

Return of purchase-money in certain cases.

315. (*1*) The purchaser shall be entitled to receive back his purchase-money, with or without interest as the Court may direct, from any person to whom it has been paid,—

(*a*) where a sale of immoveable property is set aside under section 312,

(*b*) where it is found that the judgment-debtor had no saleable interest in the property which purported to be sold, and the purchaser for that reason ***is unable to obtain possession or is*** deprived of it.

(*2*) The finding referred to in sub-section (*1*), clause (*b*), shall be binding on the Court if arrived at in a separate suit or other proceeding in a competent Court—

(*a*) to which the person against whom it is sought to enforce such repayment was a party, or

(*b*) in which, having notice, ***he might have applied to be made a party.***

(*3*) Where no such finding as is referred to in sub-section (*2*) has been so arrived at, the Court shall, upon the application of the purchaser, inquire into the matter as if it were a suit, and its finding thereon shall have the ***same*** force ***and be subject to the same conditions as to appeal or otherwise as if it were a*** a decree :

Provided that, where a competent Court has found the judgment-debtor to have no saleable interest in the property and the purchaser for that reason ***is*** in fact ***unable to obtain possession or is*** deprived of it, the Court shall presume such finding to be correct even though the person from whom it is sought to recover the purchase-money was not a party to, or had no notice of, the suit or other proceeding in which such finding was given.

(*4*) The repayment of such purchase-money as aforesaid and of the interest (if any) allowed by the Court may be enforced in the manner hereinbefore provided for the execution of decrees for the payment of money.

Certificate to purchaser of immoveable property.

316. (*1*) Where a sale of immoveable property has become absolute under section 312, sub-section (*1*), the Court shall, upon payment by the purchaser ***or, if he is dead, by his legal representative, in the manner prescribed by section 10 of the Indian Stamp Act, 1899,*** of such stamp-duty as may be prescribed by the law for the time being in force in this behalf, grant a certificate specifying the property sold and the name of the person who at the time of sale is declared to be the purchaser. II of 189

(*2*) Every certificate granted under sub-section (*1*) shall bear date the day on which the sale became absolute under section 312, sub-section (*1*), and a copy thereof shall be sent by the Court, in accordance with the provisions of section 89 of the Indian Registration Act, 1877, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property specified in the certificate is situate ; and, so far as regards the parties to the suit and persons claiming through or under them, the title to the property sold shall vest in the purchaser from the date of such certificate and not before. III of 187

Suit against purchaser not maintainable on ground of purchase being on behalf of another.

317. (*1*) No suit shall be maintained against a certified purchaser ***or his successor in title*** on the ground that the purchase was made on behalf of any other person, or on behalf of some one through whom such other person claims.

(*2*) Nothing in this section shall be deemed to bar a suit to obtain a declaration that the name of the certified purchaser was inserted in the certificate fraudulently or without the consent of the real purchaser, or a suit on behalf

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 318, 319, 326-327A, 320.)

of a third person to obtain a declaration that the property, though ostensibly sold to the certified purchaser, is liable to satisfy a claim of such third person against the beneficial owner.

Delivery of immoveable property in occupancy of judgment-debtor.

318. Where the immoveable property sold is in the occupancy of the judgment-debtor or of some person on his behalf or of some person claiming under a title created by the judgment-debtor subsequently to the attachment of such property, and a certificate in respect thereof has been granted under section 316, the Court shall, on the application of the ***holder of the certificate*** made within three years from the date of the certificate, order delivery to be made by putting ***such holder*** or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if necessary, by removing any person who refuses to vacate the same.

Delivery of immoveable property in occupancy of tenant.

319. Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under section 316, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser.

Where Court may authorize Collector to stay public sale of land.

326. (*1*) Where, in any local area in which no declaration under section 320 is for the time being in force, the property attached consists of land or of a share in land, and the Collector represents to the Court that the public sale of the land or share is objectionable and that satisfaction of the decree may be made within a reasonable period by a temporary alienation or management of the land or share, the Court may authorize the Collector to provide for such satisfaction in the manner recommended by him, instead of proceeding to a sale of the land or share.

(*2*) In every such case the provisions of section 320, sub-section (*2*), to section 325C shall, so far as they are applicable, be deemed to apply.

Power for Local Government to make rules as to sales of land in execution of decrees for payment of money.

327. The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, make rules for any local area imposing conditions in respect of the sale of any class of interests in land in execution of decrees for the payment of money, where such interests are so uncertain or undetermined as, in the opinion of the Local Government, to make it impossible to fix their value.

Stay of sale of immoveable property.

[...46 (3).] 327A. Where an order has been made for the sale of immoveable property in execution of a decree for the payment of money and an appeal is pending against such decree, the sale shall, on the application of the judgment-debtor to the Court which passed the decree, be stayed until the appeal is disposed of, ***on such conditions (if any) as to the deposit of the decretal amount or the giving of security as the Appellate Court might impose under section 545, sub-section (2).***

Transfer to Collector of decrees for execution against immoveable property.

Transfer of decrees to Collector for execution.

320. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare that in any local area the execution of decrees in cases in which a Court has ordered any immoveable property to be sold, or the execution of any particular kind of such decrees, or the execution of decrees ordering the sale of any particular kind of, or interest in, immoveable property, shall be transferred to the Collector. [Amended ... VII of 188... 30.]

(*2*) The Local Government may also, notwithstanding anything hereinbefore contained, by a like notification make rules for the transmission of such decrees from the Court to the Collector, and for regulating the procedure of the Collector and his subordinates in executing the same and re-transmitting them to the Court.

(*3*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) confer upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of such decrees if their execution had not been transferred to the Collector, including the powers of the Court under sections 294 and 312; and

(*b*) provide for orders made by the Collector or any gazetted subordinate of the Collector, or orders made on appeal with respect to such orders, being subject to appeal to, and revision by, the superior revenue-authorities, as nearly as may be as the orders made by the Court, or orders made on appeal with respect to such orders, would be subject to appeal and revision under this Code or any other law for the time being in force, if such decrees had not been transferred to the Collector.

(*4*) A power conferred by such rules upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exerciseable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

(*5*) The Court shall be precluded from exercising any jurisdiction with respect to any matter relating to the exercise, by the Collector or any gazetted subordinate of the Collector, of all or any of the powers vested in him in regard to any decree transferred

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 321, 322A, 322B-322D.)

under this section; but it shall not be precluded from exercising, in any other matter, all or any of the powers vested in it, notwithstanding that the decree has been so transferred; and a civil suit shall lie with respect to ***any act done or order made*** by the Collector or by any gazetted subordinate of the Collector with respect to which, if it had been done ***or made*** by the Court acting within its jurisdiction, a civil suit would have been maintainable.

(*6*) In executing a decree transferred to the Collector under this section the Collector and his subordinates shall be deemed to be acting judicially within the meaning of the Judicial Officers Protection Act, 1850.

XVIII of 1850.

321. (*1*) Where the execution of a decree has been transferred to the Collector under section 320, the Collector may—

Procedure on transfer of decree to Collector for execution.

(*a*) proceed as the Court would proceed under section 305; or

(*b*) raise the amount of the decree by letting in perpetuity, or for a term, on payment of a premium, or by mortgaging, the whole or any part of the property ordered to be sold; or

(*c*) sell the property ordered to be sold or so much thereof as may be necessary.

[322.] (2) Where the execution of a decree, not being a decree ordering the sale of immoveable property in pursuance of a contract specifically affecting the same, but being a decree for the payment of money in satisfaction of which the Court has ordered the sale of immoveable property, has been so transferred, the Collector, if, after such inquiry as he thinks necessary, he has reason to believe that all the liabilities of the judgment-debtor can be discharged without a sale of the whole of his available immoveable property, may proceed as hereinafter provided.

322A. (*1*) In any such case as is referred to in section ***321, sub-section*** (*2*), the Collector shall publish a notice in the language of the District, allowing a period of sixty days from the date of its publication for compliance and calling upon—

Notice to be given to decree-holders and to persons having claims on property.

(*a*) every person holding a decree for the payment of money against the judgment-debtor ***which is*** capable of execution by the sale of his immoveable property and which such decree-holder desires to have so executed, and every holder of a decree for the payment of money in execution of which proceedings for the sale of such property are pending, to produce before the Collector a copy of the decree, and a certificate from the Court which passed or is executing the same, declaring the amount recoverable thereunder;

(*b*) every person having any claim on the said property to submit to the Collector a statement of such claim, and to produce the documents (if any) by which it is evidenced.

(*2*) Such notice shall be published by being affixed on a conspicuous part of the court-house of the Court which made the original order under section 304, and in such other places (if any) as the Collector thinks fit; and, where the address of any such decree-holder or claimant is known, a copy of the notice shall be sent to him by post or otherwise.

322B. (*1*) Upon the expiration of the period fixed by section 322A, sub-section (*1*), the Collector shall appoint a day for hearing any representations which the judgment-debtor and the decree-holders or claimants (if any) may desire to make, and for holding such inquiry as he may deem necessary for informing himself as to the nature and the extent of such decrees and claims and of the judgment-debtor's immoveable property, and may, from time to time, adjourn such hearing and inquiry.

Amount of decrees for payment of money to be ascertained, and immoveable property available for their satisfaction.

(*2*) Where there is no dispute as to the fact or extent of the liability of the judgment-debtor to any of the decrees or claims of which the Collector is informed, or as to the relative priorities of such decrees or claims, or as to the liability of any such property for the satisfaction of such decrees or claims, the Collector shall draw up a statement, specifying the amount to be recovered for the discharge of such decrees, the order in which such decrees and claims are to be satisfied, and the immoveable property available for that purpose.

(*3*) Where any such dispute arises, the Collector shall refer the same, with a statement thereof and his own opinion thereon, to the Court which made the original order under section 304, and shall, pending the reference, stay proceedings relating to the subject thereof; and the Court shall dispose of the dispute if the matter thereof is within its jurisdiction, or transmit the case to a competent Court for disposal, and the final decision shall be communicated to the Collector, who shall then draw up a statement as provided by sub-section (2) in accordance with such decision.

322C. The Collector may, instead of himself issuing the notices and holding the inquiry required by sections 322A and 322B, draw up a statement specifying the circumstances of the judgment-debtor and of his immoveable property so far as they are known to the Collector or appear from the records of his office, and forward such statement to the District Court; and such Court shall thereupon issue the notices, hold the inquiry and draw up the statement required by sections 322A and 322B, and transmit such statement to the Collector.

Where District Court may issue notices and hold inquiry.

322D. The decision by the Court of any dispute arising under section 322B or section 322C shall, as between the parties thereto, have the ***same*** force and be ***subject to the same conditions as to appeal or otherwise as if it were*** a decree.

Effect of decision of Court as to dispute arising under section 322B or 322C.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 323, 324, 324A.)

Scheme for liquidation of decrees for payment of money.

323. (**1**) **Where** the amount to be recovered and the property available have been determined as provided by section 322B or **section** 322C, the Collector may,—

(*a*) if it appears that the amount cannot be recovered without the sale of the whole of the property available, proceed to sell such property;

(*b*) if it appears that the amount with interest (if any) in accordance with the decree, and, when not decreed, with interest (if any) at such rates as he thinks reasonable, may be recovered without such sale, raise such amount and interest (notwithstanding any order under section 304)—

(*i*) by letting in perpetuity or for a term, on payment of a premium, the whole or any part of the said property, or

(*ii*) by mortgaging the whole or any part of such property, or

(*iii*) by selling part of such property, or

(*iv*) by letting on farm, or managing by himself or another, the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale, or

(*v*) partly by one and partly by another or others of such modes;

(*c*) for the purpose of managing under this section the whole or any part of such property, exercise all the powers of its owner;

(*d*) for the purpose of improving the saleable value of the property available or any part thereof, or of rendering it more suitable for letting or managing, or of preserving the property from sale in satisfaction of an incumbrance, discharge the claim of any incumbrancer which has become payable, or compound the claim of any incumbrancer, whether it has become payable or not;

(*e*) for the purpose of providing funds to effect such discharge or composition, mortgage, let or sell any portion of the property which he deems sufficient; and,

(*f*) if any dispute arises as to the amount due on any incumbrance with which he proposes to deal under clause (*d*) or *clause* (*e*), institute a suit in the proper Court, either in his own name or the name of the judgment-debtor, to have an account taken, or agree to refer such dispute to the decision of two arbitrators, one to be chosen by each party, or of an umpire to be named by such arbitrators.

(**2**) In proceeding under **sub-section (1)**, **clause (b)**, **clause (c) or clause (d)**, the Collector shall be subject to such rules, consistent with this ***Code,*** as may from time to time be made in this behalf by the Chief Controlling Revenue-authority.

Recovery of balance (if any) after letting or management.

324. **Where**, on the expiration of the letting or management under section 323, the amount to be recovered has not been realized, the Collector shall notify the fact in writing to the judgment-debtor or his representative in interest, stating at the same time that, if the balance necessary to make up the said amount is not paid to the Collector within six weeks from the date of such notice, he will proceed to sell the whole or a sufficient part of the said property; and, if on the expiration of the said six weeks the said balance is not so paid, the Collector shall sell such property or part accordingly.

Collector to render accounts to Court.

324A. (**1**) The Collector shall, from time to time, render to the Court which made the original order under section 304 an account of all moneys which come to his hands and of all charges incurred by him in the exercise and performance of the powers and duties conferred and imposed on him under the provisions of this Chapter, and shall hold the balance at the disposal of the Court.

(**2**) Such charges shall include all debts and liabilities from time to time due to the Government in respect of the property or any part thereof, the rent (if any) from time to time due to a superior holder in respect of such property or part, and, if the Collector so directs, the expenses of any witnesses summoned by him.

(**3**) Such balance shall be applied by the Court—

(*a*) in providing for the maintenance of such members of the judgment-debtor's family (if any) as are entitled to be maintained out of the income of the property, to such amount in the case of each member as the Court thinks fit; and,

(*b*) where the Collector, **after making such provision,** has proceeded under section 321, in satisfaction of the original decree in execution of which the Court ordered the sale of immoveable property, or otherwise as the Court may under section 295 direct; or

(*c*) where the Collector has proceeded under section 321,—

(*i*) in keeping down the interest on incumbrances on the property;

(*ii*) where the judgment-debtor has no other sufficient means of subsistence, in providing for his subsistence to such amount as the Court thinks fit; and

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 325-325C., 257, 295.)

(iii) in discharging rateably the claims of the original decree-holders and any other decree-holders who have complied with the said notice, and whose claims were included in the amount ordered to be recovered.

(*4*) No other holder of a decree for the payment of money shall be entitled to be paid out of such property or balance until the decree-holders who have obtained the order for sale under section 304 have been satisfied, and the residue (if any) shall be paid to the judgment-debtor or such other person as the Court directs.

Sales how to be conducted.

325. Where the Collector sells any property under this Chapter, he shall put it up to public auction, in one or more lots, as he thinks fit, and may—

(*a*) fix a reasonable reserved price for each lot;

(*b*) adjourn the sale for a reasonable time whenever, for reasons to be recorded, he deems the adjournment necessary for the purpose of obtaining a fair price for the property;

(*c*) buy in the property offered for sale, and re-sell the same by public auction or private contract, as he thinks fit.

Restrictions as to alienation by judgment-debtor or his representative, and prosecution of remedies by decree-holders.

325A. (*1*) So long as the Collector can exercise or perform in respect of the judgment-debtor's immoveable property, or any part thereof, any of the powers or duties conferred or imposed on him by sections ***321*** to 325, the judgment-debtor or his representative in interest shall be incompetent to mortgage, charge, lease or alienate such property or part except with the written permission of the Collector, nor shall any Civil Court issue any process against such property or part in execution of a decree for the payment of money.

(*2*) During such period as aforesaid no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under section 323.

(*3*) Such period as aforesaid shall be excluded in the calculation of the period of limitation applicable to the execution of any decree affected by the provisions of this section in respect of any remedy of which the decree-holder has been temporarily deprived.

Provision where property is in several districts.

325B. Where the property of which the sale has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by sections 321 to 325 shall be exercised and performed by such one of the Collectors of the said districts as the Local Government may by general rule or special order direct.

Powers of Collector to compel attendance and production.

325C. In exercising the powers conferred on him by sections ***321*** to 325, the Collector shall have the powers of a Civil Court to compel the attendance of parties and witnesses and the production of documents.

Payment and distribution of assets realised in execution.

Modes of paying money under decree.

257. All money payable under a decree shall be paid—

(*a*) into the Court whose duty it is to execute the decree; or

(*b*) out of Court to the decree-holder; or

(*c*) otherwise as the Court which passed the decree directs.

Proceeds of execution-sale to be rateably distributed among decree-holders.

295. (*1*) Where assets are held by a Court available for distribution in execution of a decree, and more persons than one have, before such assets became so available, made application, ***in the form prescribed by section 235,*** to ***such*** Court for the execution of decrees for the payment of money ***passed*** against the same judgment-debtor ***or, if he is dead, against his legal representative,*** and have not obtained satisfaction thereof, the assets, after deducting the costs of the realization, shall be rateably distributed among all such persons, ***and*** each of ***such persons*** shall be bound immediately to deliver to the Court, for the purpose of such rateable distribution, any assets realized by him, subsequently to the making of his application for execution, otherwise than through the Court:

Provided first, that, where any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not, as such, be entitled to share in any surplus arising from such sale:

Provided, secondly, that where any property liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the assent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge, giving to the mortgagee or incumbrancer the same right against the proceeds of the sale as he had against the property sold; and

Provided, thirdly, that where any immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of the sale shall be applied—

first, in defraying the expenses of the sale;

secondly, in discharging the amount due on the decree;

thirdly, in discharging the interest and principal moneys due on subsequent incumbrances (if any); and,

fourthly, rateably among the holders of decrees for the payment of money against the judgment-debtor, who have, prior to the sale of the property, applied to the Court which ***passed*** the decree ordering such sale for execution of such decrees, and have not obtained satisfaction thereof.

(*2*) A decree-holder who has caused property to be attached before judgment, shall be en-

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 295, 328.))

property subject to his attachment, notwithstanding that he has made no application ***for execution.***

(3) ***The holder of a decree for the payment of money passed by a Court other than the Court holding assets available for distribution may apply to the Court holding such assets to share in the rateable distribution although no precept has been issued to such Court under section 223B : but he cannot share in the rateable distribution until such a precept has been received by such Court.***

(4) Every application ***of the nature referred to in sub-section (1),*** of which the judgment-debtor has notice, shall, subject to any objection made by him thereto and the orders made on such objection by the Court executing the decree, operate as an attachment ***for such period as the Court may direct,*** notwithstanding that the original attachment may, for any reason, have ceased.

(5) Where all or any of the assets liable to be rateably distributed under this section are paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

(6) Nothing in this section shall be deemed to affect any right of the Government.

Explanation I.—For the purposes of this section, assets realized by the sale of any property in execution of a decree are not available for distribution until the entire amount due from the purchaser has been paid into Court ***and the sale has become absolute.***

Explanation II.—For the purposes of this section,—

(*a*) every decree, other than a decree for the enforcement of a mortgage ***or charge,*** is, to the extent to which money is payable thereunder, a decree for the payment of money, notwithstanding that the amount of money so payable has not yet been ascertained or that relief of another kind has also been granted ;

(*b*) a decree directing the realization of a money-claim from mortgaged ***or charged*** property and declaring the judgment-debtor to be personally liable for any deficiency, is a ***decree for the enforcement of*** a mortgage ***or charge,*** and not a decree for the payment of money ;

(c) a decree directing the payment of the balance of a mortgage-debt remaining due after the payment to the mortgagee of the net proceeds of the sale of the mortgaged property is a decree for the payment of money and not a decree for the enforcement of a mortgage ; and

(*d*) a decree directing the payment of money by any person does not cease to be a decree for the payment of money, in so far as that person is concerned, merely because it directs, as against another person, the realization of a money-claim from mortgaged ***or charged*** property.

Explanation III.—For the purposes of this section, where the holder of a decree against two or more persons applies for the rateable distribution of the assets realized from the property belonging to one of such persons, or where the holder of a decree against one person applies for a rateable distribution of the assets ***of that person*** realized from property belonging to that person and another, such applications are applications for the execution of decrees against the same judgment-debtor.

Explanation IV.—For the purposes of this section, where a sale has been set aside in accordance with the provisions of section 310A, sub-section (1), clause (b), the amount deposited for payment to the decree-holder is assets available for distribution.

Resistance to execution.

Resistance or obstruction to execution of decree.

328. (1) Where, in the execution of a decree for the possession of property, the officer charged with the execution of the warrant is resisted or obstructed by any person, the decree-holder may complain to the Court at any time within one month from the time of such resistance or obstruction.

(2) The Court shall fix a day ***and hour*** for investigating the complaint, and shall summon the person against whom the complaint is made to answer the same.

(3) Where the Court is satisfied that the obstruction or resistance was occasioned by the judgment-debtor or by some other person at the instigation of the judgment-debtor, the Court shall inquire into the matter of the complaint, and ***make*** such order ***for the delivery of the property or otherwise as it thinks fit.*** [329

(4) Where the Court is satisfied that the resistance or obstruction was without any just cause, and that the complainant is still resisted or obstructed in obtaining possession of the property by the judgment-debtor or by some other person at the instigation of the judgment-debtor, the Court may, at the instance of the decree-holder and without prejudice to any proceedings to which such judgment-debtor or other person may be liable, [330

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections-335.)

XLV of 1860. under the Indian Penal Code or any other law for the time being in force, for the punishment of such resistance or obstruction, ***order*** the judgment-debtor or such other person ***to be detained in the civil prison*** for a term which may extend to thirty days, and further direct that the decree-holder be put into the possession of the property.

(*5*) ***Where the Court is not satisfied that the obstruction or resistance was occasioned by the judgment-debtor or by some person at the instigation of the judgment-debtor and rejects the complaint without the inquiry prescribed by sub-section (3), the order so rejecting the complaint shall have the same force and be subject to the same conditions as to appeal or otherwise as if it were a decree.***

Procedure in case of resistance or obstruction by claimant other than judgment-debtor.

331. (*1*) Where the Court is satisfied that the resistance or obstruction was occasioned by any person (other than the judgment-debtor) claiming in good faith ***to be in possession of*** the property on his own account or on account of some person other than the judgment-debtor, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant.

(*2*) The Court shall, without prejudice to any proceedings to which the claimant may be XLV of 1860. liable, under the Indian Penal Code or any other law for the time being in force, for the punishment of such resistance or obstruction, proceed to investigate the claim so numbered and registered in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of Chapter VI, and shall pass such order as it thinks fit for executing, or staying the execution of, the decree.

(*3*) Where the ***value of the*** subject-matter of the claim would, if a separate suit had been instituted, have been within the pecuniary limits of the jurisdiction of the Court and would not have been excluded from such jurisdiction but for the provisions of section 15, the order shall have the same force ***and be subject to the same conditions as to appeal or otherwise*** as ***if it were*** a decree in a suit for the declaration of title ***and for possession.***

(*4*) In any case other than that provided for by sub-section (*4*), the order shall have the same force ***and be subject to the same conditions as to appeal or otherwise*** as ***if it were*** a decree in a suit for the immediate possession of property under the provisions of Chapter I of the Specific Relief Act, 1877. of 1877.

Procedure in case of person dispossessed of property disputing right of decree-holder to be put into possession.

332. ***(1)*** Where any person other than the judgment-debtor is dispossessed of any property ***otherwise than in the manner prescribed by section 331*** in execution of a decree and disputes the right of the decree-holder to dispossess him of such property under the decree on the ground that the property was in his possession on his own account or on account of some person other than the judgment-debtor, and that it was not comprised in the decree, or that, if it was comprised in the decree, he was not a party to the suit in which the decree was passed, he may apply to the Court.

(2) Where it appears to the Court, after examining the applicant, that there is probable cause for making the application, the Court shall proceed to investigate the matter in ***controversy*** and, if it finds that any of the grounds of dispute mentioned in sub-section ***(1)*** exists, it shall make an order that the applicant recover possession of the property, and, if it does not find as aforesaid, it shall dismiss the application.

(3) In hearing applications under this section, the Court shall confine itself to the grounds of dispute mentioned in sub-section ***(1).***

(4) The person against whom an order is made under this section may institute a suit to establish the right which he claims to the present possession of the property; but, subject to the result of such suit (if any), the order made under this section shall be final ***and conclusive.***

Transfer of property by the judgment-debtor after institution of suit.

333. Nothing in section 331 or section 332 shall be deemed to apply to a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree is passed.

Procedure in case of resistance or obstruction to possession by judgment-debtor or at his instigation.

334. Where the purchaser of any immoveable property sold in execution of a decree is resisted or obstructed by the judgment-debtor or by some other person at the instigation of the judgment-debtor in obtaining possession of the property, the provisions of this Chapter relating to resistance or obstruction to a decree-holder in obtaining possession of the property adjudged to him shall, so far as they are applicable, be deemed to apply.

Procedure in case of resistance or obstruction to possession by claimant other than judgment-debtor.

335. (*1*) Where the purchaser of any such property is resisted or obstructed by any person (other than the judgment-debtor) claiming in good faith a right to the present possession thereof, or where, in delivering possession thereof, any such person is dispossessed, the Court, on the complaint of the purchaser or

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XX.—Of the Execution of Decrees and Orders.—Sections 335A, 343.) Chapter XXI.—Of Insolvency.—Sections 344, 345.)

the person so dispossessed, shall inquire into the matter of the resistance, obstruction or dispossession, as the case may be, and make such order thereon as it thinks fit.

(*2*) The person against whom an order is made under this section may institute a suit to establish the right which he claims to the present possession of the property; but, subject to the result of such suit (if any), the order so made shall be final ***and conclusive.***

(3) The provisions of section 263, so far as they are applicable, shall be deemed to apply to the execution of any order under section 332, section 334 or section 335 directing possession to be delivered to any person.

Plea of resistance, obstruction or dispossession barred in certain cases.

V of 1882.

335A. Where any person or his predecessor in title, having notice, within the meaning of section 2 of the Transfer of Property Act, 1882, of facts entitling him to make a complaint or application under any of the provisions of sections 328 to 335, has failed to make it, no Court, save in a criminal proceeding or in a suit of the nature specified in section 332 or section 335, shall grant such person any relief, or give him the benefit of any defence, depending upon any allegation of resistance, obstruction or dispossession which might have been alleged in any such complaint or application against the party, or the predecessor in interest of the party, against whom such relief is sought or such defence is pleaded.

*Return of **process** for execution of decree.*

Endorsement on process.

[Includes latter part of 251.]

343. (*1*) The officer entrusted under section 250, sub-section (*2*), with the execution of the ***process*** shall endorse thereupon the day on, and the manner in, which it was executed, and, if the latest day specified in the ***process*** for the return thereof has been exceeded, the reasons of the delay, or, if it was not executed, the reason why it was not executed, and shall return the ***process*** with such endorsement to the Court.

(*2*) Where the endorsement is to the effect that such officer is unable to execute the ***process,*** the Court shall examine him touching his alleged inability, and may, if it thinks fit, summon and examine witnesses as to such inability and shall record the result.

CHAPTER XXI.

OF INSOLVENCY.

Insolvency jurisdiction.

344. (*1*) Save as otherwise provided by sub-section (3), the Local Government may, by notification in the local official Gazette, invest any Court or class of Courts with power to exercise jurisdiction in any case or class of cases instituted under this Chapter in any local area specified in the notification [IV of ... s. 22.]

(*2*) Subject to any rules made by the Local Government in this behalf by a like notification, a Court invested with power under subsection (*1*) may transfer any case or class of cases to any Court subordinate to it and invested with powers to exercise jurisdiction in such case or class of cases, and shall have, in regard to any case pending before it, all the powers conferred by section 25 on a High Court or District Court. [360.]

(*3*) Nothing contained in this Chapter shall be deemed to apply to any Court having jurisdiction within the towns of Calcutta, Madras, Bombay or Rangoon, or to limit or otherwise affect anything done by any such Court in the exercise of any power conferred by the Indian Insolvency Act, 1848, or by section 8 of the Lower Burma Courts Act, 1900. [360A, ed by ... of 188 31(4).] [11 & 12 c. 21. V of 1...]

Acts of insolvency.

345. A debtor commits an act of insolvency in each of the following cases, namely:— [46 & Vict., c s. 4.]

(*a*) if in British India or elsewhere he makes a conveyance or assignment of the whole of his property to a trustee or trustees for the benefit of his creditors severally, even though there is no fraud; or

(*b*) if in British India or elsewhere he makes any conveyance or other transfer of his property or any part thereof, or creates any charge thereon which would amount to *an undue* preference;

(*c*) if, with intent to defeat or delay his creditors,—

(i) he departs or remains out of British India; or

(ii) he departs from his dwelling-house or otherwise absents himself; or

(iii) he secludes himself in order to deprive his creditors of the means of communicating with him; or

(iv) in British India or elsewhere he makes a fraudulent conveyance, gift, delivery or other transfer of his property or any part thereof;

V U

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XXI.—Of Insolvency.—Sections 346—348.)

(*d*) if any of his property has been attached and sold by order of any Court; or

(*e* if he applies to be declared an insolvent under the provisions of section 346, sub-section (*1*); or

(*f*) if he gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts.

[344; see, too, IV of 1872, s. 23, and XVII of 1879, s. 25.] Application for declaration of insolvency.

346. (*1*) Any debtor may apply to be declared an insolvent, if—

(*a*) his debts exceed five hundred rupees or, in the case of an agriculturist fifty rupees ***or such other amount as the Local Government, by notification in the local official Gazette, may prescribe,*** or

(*b*) he has been arrested or confined in prison in execution of a decree for the payment of money, or

(*c*) an order of attachment in execution of such a decree has been made, and is subsisting, against his property.

(2) Any creditor or creditors —

(*a*) to whom a sum, or sums in the aggregate, exceeding five hundred rupees is or are due from a debtor, or

(*b*) who has or have obtained against a debtor a decree for the payment of money,

may apply that such debtor be declared an insolvent on the ground that he has committed an act of insolvency within the meaning of section 345.

(*2*) Every application under this section shall be in writing and shall be made to the Court ***exercising*** jurisdiction ***under this Chapter in the local area in which*** the debtor actually and voluntarily resides or carries on business or personally works for gain or, if he has been arrested or confined in prison, where he is in custody.

[345.] Contents of application.

347. (*1*) Every application made by a debtor under section 346, sub-section (*1*), shall ***contain the following particulars, namely:—***

(*a*) ***where the applicant is*** an agriculturist***, a statement to that effect;***

(*b*) the place where he actually and voluntarily resides or carries on business or personally works for gain or, if he has been arrested or confined in prison, the place where he is in custody;

(*c*) the Court (if any) by whose order he has been arrested or is confined in prison or by which an order has been made for the attachment of his property;

(*d*) the amount and particulars of all pecuniary claims against him, together with the names and residences of his creditors so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by, him;

(*e*) the amount and particulars of all his property, together with—

(*i*) a specification of the value of all such property not consisting of money;

(*ii*) the place or places at which all his property is to be found; and

(*iii*) a declaration of his willingness to place all his property at the disposal of the Court save in so far as it includes any of the particulars specified in the proviso to section 266, ***other than those specified in*** clause (*d*) of the said proviso.

(*2*) Every application made by a creditor or creditors under section 346, sub-section (*2*), shall set forth the particulars specified in clauses (*a*) and (*b*) of sub-section (*1*), and shall also specify—

(*a*) the act of insolvency committed by the debtor;

(*b*) the amount and particulars of his or their pecuniary claim or claims against such debtor; and

(*c*) the date of the decree (if any) obtained by him or them against him together with the name of the Court passing it and the amount remaining due thereunder. [346]

(*3*) Every application made under section 346 shall be signed and verified in the manner hereinbefore prescribed for signing and verifying plaints; and the procedure laid down in sections 53 to 57 with respect to the rejection, return or amendment of plaints shall, so far as it is applicable, be followed in the case of such applications. [New. Cf. IV of 1872, s. 24]

Conditional order.

348. (*1*) Where the application is not rejected or returned under section 347, sub-section (*3*), or where it is admitted after having been so returned, the Court shall, unless it sees reason to give previous notice to any person, direct by ***ex parte*** order—

(*a*) that all the debtor's property, ***except*** the particulars specified in the proviso to section 266, ***other than those specified in*** clause (*d*) of the said proviso, is conditionally vested, in trust for the debtor's creditors,

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XXI.—Of Insolvency.—Section 348—350.)

in the Court or, subject to any rules which the Local Government may, by notification in the local official Gazette, make in this behalf, in such officer as the Court may, by general or special order, direct;

(*b*) that such property and the person of the debtor shall be exempt from all suits, execution or other legal process ***for the enforcement of any claim provable under this Chapter,*** except process issued by the Court in the exercise of its powers under this Chapter; and

(*c*) that notice be given, in the manner provided by sub-section (*3*), to all creditors to notify to the Court, on or before a day specified in the notice for the disposal of the application, any debts provable under this hapter.

(*2*) At the time of making the order referred to in sub-section (*1*) or at any time afterwards, the Court may, in its discretion, order the debtor to give reasonable security for his appearance and may direct that, in default of giving such security, he shall be detained in ***the civil*** prison.

(*3*) Notice of the order under sub-section (*1*), clause (*c*), shall be given by publication in the local official Gazette, and such publication shall be conclusive proof of notice to any creditor; and thereupon, subject to the provisions of section 360I, unless and until such order is discharged, no Court, other than the Court giving the notice, shall, except in a criminal proceeding or by leave of the Court giving the notice and on such terms as it may impose, recognize, for the purpose of granting any relief or of giving effect to any defence, any assertion of a pecuniary claim against the debtor, which, after such notice, might be proved, under this Chapter, in the Court giving the notice.

(*4*) ***In addition to the publication required by*** sub-section (3), ***the Court*** shall give to ***the*** creditors such notice, whether by the ordinary forms of process or by registered letter or by public advertisement or proclamation, as, subject to any rules which the Local Government may, by notification in the local official Gazette, make in this behalf, it may consider expedient.

[347. (*5*) Where the debtor is not the applicant notice ***of the order under sub-section (1), clause*** (*c*), shall be given to him or to his pleader in the manner provided by Chapter VII for the service of process.

(*6*) All expenses incidental to the giving of notice under sub-sections (*3*) to (*5*) shall, ***in the first instance,*** be borne by, and be recoverable from, the applicant as costs:

Provided that, where the applicant is the debtor, the Court may exempt him from all payments under this section if it is satisfied that he is unable to make them.

(*7*) Nothing in this section shall be deemed to authorize the making of an order under sub-section (*1*) against any corporation, company, partnership or firm. [Cf. Vic s. 1

Duties of debtor.

349. (*1*) Every debtor against whom an order under section 348 has been made shall, unless he is prevented by sickness or other sufficient cause or unless the Court thinks fit to dispense with his personal attendance, attend on the day specified in the notice referred to in clause (*c*) of sub-section (*1*) of the said section and on any subsequent day to which the proceedings may be adjourned, and shall at all times submit to such examination and give such information as the Court may require. [N ibi

(*2*) In particular and without prejudice to the generality of the foregoing provision, the debtor shall give such inventories of his property, and such lists of his creditors and debtors and of the debts due to and from them, respectively, submit to such examination in respect of his property or his creditors, attend at such times before the Court, officer of the Court or receiver, execute such instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the Court, officer of the Court or receiver or as may, subject to any rules which the Local Government may, by notification in the local official Gazette, make in this behalf, be, by general or special order, directed by the Court.

(*3*) The debtor shall, if declared an insolvent, aid, to the utmost of his power, in the realization of his property and the distribution of the proceeds among his creditors.

(*4*) If a debtor wilfully fails—

(*a*) to perform the duties imposed on him by this section, or

(*b*) to deliver possession of any of his property which is divisible among his creditors under this Chapter, and which is for the time being in his possession or under his control,

he shall, ***on conviction by a Magistrate,*** be punishable with imprisonment for a term which may extend to ***six*** months, or with fine which may extend to ***one thousand*** rupees, or with both.

Seizure of property and arrest of debtor.

350. Where ***the Court is satisfied*** that the debtor, with intent to defeat or delay his creditors or to avoid any process of the Court,— [C 25

(*a*) has absconded or has departed from the local limits of the jurisdiction of the

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XXI.—Of Insolvency.—Sections 351-355.)

Court, or is about to abscond or to depart from such limits, or is remaining outside them, or

(*b*) has concealed, destroyed, transferred or removed from such limits, or is about to conceal, destroy, transfer or remove from such limits, any documents likely to be of use to his creditors in the course of the hearing or any part of his property other than any of the particulars specified in the proviso to section 266, ***other than those specified in*** clause (*d*) of the said proviso,

the Court may, either of its own motion or on the application of any creditor, order attachment by actual seizure of all or any documents in the possession or under the control of the debtor, or of the whole or any part of his property other than any of the particulars specified in the proviso to section 266, ***other than those specified in*** clause (*d*) of the said proviso, and may also issue a warrant, with or without ***bail***, for his arrest, and may direct either that he be detained in ***the civil*** prison until the disposal of the application, or that he be discharged on such terms as to security as may be reasonable and necessary.

[350.] Procedure at hearing.

351. (*1*) On the day specified in the notice referred to in section 348, sub-section (*1*), clause (*c*), or on any subsequent day to which the hearing may be adjourned, the Court shall examine the debtor in ***the*** presence of such creditors as attend in person or by pleader, and shall hear such creditors or their pleaders in opposition to the debtor's discharge.

(*2*) The Court may, if it thinks fit, call for, receive, or grant time to the debtor or to any creditor to produce, any evidence which appears to it to be necessary for the proper disposal of the application.

(*3*) A memorandum of the substance of the examination of the debtor under sub-section (*1*) and of any oral evidence admitted under sub-section (*2*) shall be recorded in the manner provided by section 189 in cases in which no appeal is allowed.

[New.] Dismissal of application.

352. (*1*) Where, after the examination of the debtor and such further inquiry (if any) as may be made under section 351, sub-section (*2*), or at any earlier stage of the case, the Court is satisfied that there is no sufficient ground for proceeding ***with the application,*** it shall dismiss the application and discharge the order made under section 348, sub-section (*1*).

(*2*) Where an application presented by a creditor is dismissed under sub-section (*1*) and the Court is satisfied that the application was frivolous or vexatious, the Court may, on the application of the debtor, award against such creditor such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the debtor for the expense or injury occasioned to him by the application and the proceedings thereon, ***and such amount may be realized as if it were imposed by the Court in exercise of any power conferred upon it by this Code:*** [Cf. 491.]

Provided that ***a*** Court ***competent to try a suit for compensation*** shall not award ***an*** amount ***exceeding the amount for which*** it might ***pass a*** decree in ***such*** a suit.

(3) An award under this section shall bar any suit for compensation in respect of such application and proceedings thereon.

Declaration of insolvency.

353. (*1*) Where the Court does not dismiss the application under section 352, the order made under section 348, sub-section (*1*), clauses (*a*) and (*b*), shall be made absolute, and the Court shall declare the debtor an insolvent. [351.]

(*2*) Notice that such order has been made absolute and that the debtor has been declared an insolvent shall be given in the manner hereinbefore provided for notice of the order made under section 348.

Appointment of receiver.

354. (*1*) The Court may, at the time of declaring the debtor an insolvent under section 353, sub-section (*1*), or at any time afterwards, appoint a receiver for the property vested in it, and such property shall be deemed to be transferred to, and to vest in, such receiver. [New. Cf. XVII of 1879, s. 27.]

(*2*) Save in so far as is otherwise provided by sub-section (*3*), the provisions of section 503, sub-sections (*2*) and (*4*), shall, so far as they are applicable, be deemed to apply to receivers appointed under this section.

(*3*) Where the debtor is an agriculturist, the receiver shall be such officer as is prescribed by any rules which the Local Government may, by notification in the local official Gazette, make in this behalf, and shall, save as may be otherwise provided by such rules, be entitled to no fee, commission or other remuneration in respect of the administration of the estate.

Powers exercisable by receiver by leave of Court.

355. (*1*) The receiver may, by leave of the Court, do all or any of the following things, namely:— [New. Cf. 46 & 47 Vict. c. 52, s. 57.]

(*a*) carry on the business of the insolvent,

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XXI.—Of Insolvency.—Sections 356-357.)

so far as may be necessary for the beneficial winding up of the same :

(*b*) institute, defend or continue any suit or other legal proceeding relating to the property of the insolvent ;

(*c*) employ a pleader or other agent to take any proceedings or do any business which may be sanctioned by the Court :

(*d*) accept as the consideration for the sale of any property of the insolvent a sum of money payable at a future time subject to such stipulations as to security and otherwise as he thinks fit ;

(*e*) mortgage or pledge any part of the property of the insolvent for the purpose of raising money for the payment of his debts ;

(*f*) refer any dispute to arbitration, compromise all debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the insolvent and any person who may have incurred any liability to the insolvent, on the receipt of such sums, payable at such times, and generally on such terms, as may be agreed upon ;

(*g*) make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of any debts ***provable*** under this Chapter :

(*h*) make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the insolvent, made or capable of being made on the receipt by any person or by the receiver on any person ;

(*i*) divide in its existing form amongst the creditors, according to its estimated value, any property which, from its peculiar nature or other special circumstances, cannot be readily or advantageously sold.

(*2*) The leave given for the purposes of this section shall not be a general leave to do all or any of the above-mentioned things, but shall only be leave to do the particular thing or things for which leave is sought in the specified case or cases.

[New. *Cf.* 46 & 47 Vict., c. 52, s. 37.]

Debts provable in insolvency.

356. (*1*) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise or breach of trust shall not be provable ***under this Chapter.***

(*2*) A person having notice of any act of insolvency available against the debtor shall not prove under the order any debt or liability contracted by the debtor subsequently to the date of his so having notice.

(*3*) Save as otherwise provided by sub-sections (*1*) and (*2*), all debts and liabilities, present or future, certain or contingent, to which the debtor is subject when he is declared to be an insolvent or to which he may become subject before his discharge by reason of any obligation incurred before the date of such declaration, shall be deemed to be debts provable in insolvency.

(*4*) An estimate shall be made by the Court or by the receiver of the value of any debt or liability provable as aforesaid, which by reason of its being subject to any contingency or for any other reason, does not bear a certain value.

(*5*) Any person aggrieved by any estimate made by a receiver under sub-section (*4*) may appeal to the Court.

(*6*) Where, in the opinion of the Court, the value of the debt or liability is incapable of being fairly estimated, the Court may make an order to that effect, and thereupon the debt or liability shall, for the purposes of this Chapter, not ***be*** provable ***under this Chapter.***

(*7*) Where, in the opinion of the Court, the value of the debt or liability is capable of being fairly estimated, the Court may direct the value to be assessed and may give all necessary directions for this purpose, and the amount of the value when assessed shall ***not*** be provable ***under this Chapter.***

Explanation.—For the purposes of this section, liability includes any compensation for work done, any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement or undertaking, whether the breach does or does not occur, or is or is not likely to occur or capable of occurring before the discharge of the debtor, and generally it includes any express or implied engagement, agreement or undertaking to pay, or capable of resulting in the payment of, money or money's worth, whether the payment is, as respects amount, fixed or unliquidated, as respects time, present or future, certain or dependent on any contingency or contingencies, and, as to mode of valuation, capable of being ascertained by fixed rules or as matter of opinion.

Mode and costs of proof.

[New *ibid* II, r. 6.]

357. (*1*) A debt may be proved by delivering, or sending by post, to the Court or, where a receiver has been appointed, to the receiver, an affidavit verifying the debt.

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XXI.—Of Insolvency.—Sections 358-359.)

(2) A creditor shall, unless the Court otherwise directs, bear the costs of proving his debt.

[New. *Cf. ibid.*, rr. 9 17.] 358. (*1*) Where a secured creditor realizes his security, he may prove the balance due to him, after deducting the net amount realized.

Secured creditors.

(2) Where a secured creditor surrenders his security to the Court or to the receiver for the general benefit of the creditors, he may prove his whole debt.

(3) Where a secured creditor does not either realize or surrender his security, he shall, before ***being entitled to participate in a*** dividend ***in order of priority,*** state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

(4) Where a security is so valued, the Court or the receiver may at any time redeem it on payment to the creditor of the assessed value; and, where the Court or the receiver is dissatisfied with the value at which a security is assessed, it or he may require that the property comprised in any security so valued shall be offered for sale at such times, and on such terms and conditions, as may be agreed upon between the creditor and the Court or the receiver, or as, in default of such agreement, the Court may direct; and, where the sale is by public auction, the creditor, or the Court or the receiver on behalf of the estate, may bid or purchase:

Provided that the creditor may at any time, by notice in writing, require the Court or the receiver to elect whether ***it or*** he will or will not exercise ***its or*** his power of redeeming the security or requiring it to be realized, and, where the Court or the receiver does not, within six months after receiving the notice, signify in writing to the creditor its or his election to exercise the power, it or he shall not be entitled to exercise it; and the equity of redemption, or any other interest in the property comprised in the security which is vested in the Court or the receiver, shall vest in the creditor, and the amount of his debt shall be educed by the amount at which the security has been valued.

(5) Where a creditor has so valued his security, he may at any time amend the valuation and proof on showing, to the satisfaction of the Court or the receiver, that the valuation and proof were made in good faith on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation; but the costs of every such amendment shall be borne by the creditor and upon such terms as the Court shall order, unless the receiver allows the amendment without application to the Court.

(6) Where a valuation has been amended in accordance with sub-section (5), the creditor shall forthwith repay any surplus dividend received by him in excess of that to which he would have been entitled on the amended valuation, or, as the case may be, shall be entitled to be paid, out of any money for the time being available for dividend, any dividend or share of dividend which he may have failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

(7) Where a creditor, after having valued his security, subsequently realizes it, or where it is realized under sub-section (*4*), the net amount realized shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

(8) Where a secured creditor does not comply with the provisions of this section, he shall be excluded from all share in any dividend.

(9) Subject to the provisions of sub-section (*4*), a creditor shall in no case receive more than sixteen annas in the rupee, and interest as hereinafter provided by this Chapter.

(10) Nothing in this section shall be deemed to relieve a receiver of the necessity for obtaining the leave of the Court in accordance with the provisions of section 355.

359. (*1*) On any debt or sum certain, whereon interest is not reserved or agreed upon, and which is overdue when the debtor is declared an insolvent, and which is provable ***under this Chapter***, the creditor may prove interest at a rate not exceeding ***six*** per centum per annum,— [New. *Cf. ibid.*, r. 20.]

Interest.

(*a*) if the debt or sum is payable by virtue of a written instrument at a certain time, from the time when ***such*** debt or sum was payable to the date of such declaration, or,

(*b*) if the debt or sum is payable otherwise, from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment, to the date of such declaration.

(2) Where a debt has been proved under this Chapter, and such debt includes interest or any pecuniary consideration in lieu of interest, such interest or consideration shall, for the purposes of dividend, be calculated at a rate not exceeding ***six*** per centum per annum, without prejudice to the right of a creditor to receive out of the debtor's esta any higher [*Ibid.*, r. 23.]

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XXI.—Of Insolvency.—Sections 360-360D.)

rate of interest to which he may be entitled after all the debts proved have been paid in full.

[New. Cf. ibid., r. 1.]

Debt payable at a future time.

360. A creditor may prove a debt not payable when the debtor committed an act of insolvency as if it were payable presently, and may receive dividends equally with the other creditors, deducting only therefrom a rebate of interest at the rate of ***six*** per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted.

[New. Cf. ibid., rr. 23-25.]

Disallowance and reduction of claim to dividend.

360A. (*1*) Where the receiver thinks that a ***creditor*** has been improperly ***allowed to prove a debt not provable under this Chapter,*** the Court may, on the application of the receiver and after notice to the creditor, ***after such inquiry (if any) as the Court thinks necessary, disallow the creditor's claim to dividend*** or reduce its amount.

(*2*) The Court may also, ***after such inquiry as aforesaid, disallow or reduce the amount of any such claim*** upon the application of a creditor where no receiver has been appointed or where the receiver declines to interfere in the matter, or, in the case of a composition or scheme, upon the application of the debtor.

[New. Cf. 51 & 52 Vict., c. 62, s. 1.]

Distribution.

360B. (*1*) In the distribution of the property of the insolvent, there shall be paid, in priority to all other debts,—

(*a*) all debts due to ***His Majesty*** or to any local authority;

(*b*) all salary or wages, not exceeding twenty rupees, of any clerk or servant in respect of services rendered to the insolvent during four months before the date of the order made under section 348, sub-section (*1*); and

(*c*) all wages, not exceeding ten rupees, whether payable for time or for piece-work, of any labourer or workman in respect of services rendered to the insolvent during two months before the date of the order aforesaid.

(*2*) The debts ***specified in sub-section*** (*1*) shall rank equally between themselves, and shall be paid in full, unless the property of the insolvent is insufficient to meet them, in which case they shall abate in equal proportion between themselves.

(*3*) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the debts ***specified in sub-section*** (*1*) shall be discharged forthwith in so far as the property of the insolvent is sufficient to meet them.

(*4*) In the case of partners the partnership property shall be applicable in the first instance in payment of the partnership debts, and the separate property of each partner shall be applicable in the first instance in payment of his separate debts. Where there is a surplus of the separate property of the partners, it shall be dealt with as part of the partnership property; and, where there is a surplus of the partnership property, it shall be dealt with as part of the respective separate property in proportion to the right and interest of each partner in the partnership property. [Cf. ... Vict. s. 40

(*5*) Subject to the provisions of this Chapter, all debts proved under this Chapter shall be paid ***rateably according to the amounts of such debts respectively and without any preference.***

(*6*) Where there is any surplus after payment of the debts ***specified in sub-section*** (*1*), it shall be applied in payment of interest from the date of the order made under section 348, sub-section (*1*), at the rate of ***six*** per centum per annum on all debts proved under this Chapter.

[356, prov...

Special provisions in regard to immoveable property.

360C. In any local area in which a declaration has been made under section 320 and is in force, no sale of immoveable property paying revenue to the Government or held or let for agricultural purposes shall be made by the Court or, where a receiver has been appointed, by the receiver; but, after realizing the other property of the insolvent, the Court shall ascertain—

(*a*) the amount required to satisfy the debts proved under this Chapter after deducting the moneys already received,

(*b*) the immoveable property of the insolvent remaining unsold, and

(*c*) the incumbrances (if any) existing thereon,

and shall forward a statement to the Collector containing the particulars aforesaid; and thereupon the Collector shall proceed to raise the amount so required by the exercise of such of the powers conferred on him by sections 321 to 325 as he thinks fit, and subject to the provisions of those sections so far as they are applicable, and shall hold at the disposal of the Court all sums that may come to his hands by such exercise.

[New ... IV ... s. 28.

Compositions.

360D. (*1*) Subject to the provisions of section 360B, sub-sections (*1*) to (*3*), and of section 360C, the Court or, where a receiver has been ap-

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chaper XXI.—Of Insolvency.—Sections 360E-360H.)

pointed, the receiver shall give effect to any composition or arrangement agreed upon between the debtor and the ***creditors representing a*** majority ***in value of the claims provable under this Chapter by those*** of the creditors who have appeared:

Provided that no injustice or injury appears to be inflicted by such composition or arrangement on any of the parties concerned:

Provided, also, that there is no reasonable ground for suspecting the composition or agreement to be fraudulent or collusive.

( ) Where any creditor objects to any composition or arrangement to which effect is given or to be given under sub-section (***1***), the Court shall decide as to the reasonableness of the objection.

[N. *Cf. ibid.*, s. 26.]

Annulment of fraudulent transfers.

360E. Where it is shown to the satisfaction of the Court that the debtor, after becoming unable to meet his liabilities or in expectation of becoming so, has transferred his property, or any part thereof, with a view to defrauding his creditors or to giving one or more creditors ***an undue*** preference over the others, the Court shall annul such transfer, and treat the property transferred as the other property of the debtor:

[*Cf.* 46 & 47 Vict., c. 52, s. 48.]

Provided that nothing in this section shall be deemed to limit or otherwise affect the rights of any person ***proving a*** title ***acquired*** in good faith and for valuable consideration through or under a creditor of the insolvent

[New. *Cf. ibid.*, ss. 60, 61 and 63.]

Dividends.

360F. (***1***) In the calculation and distribution of dividends, the Court or, where a receiver has been appointed, the receiver shall make provision for—

(*a*) debts provable under this Chapter and appearing, from the insolvent's statements or otherwise, to be due to persons resident in places so distant that in the ordinary course of communication they have not had sufficient time to tender their proofs, or to establish them if disputed;

(*b*) debts provable under this Chapter, the subject of claims not yet determined;

(*c*) disputed proofs or claims; and

(*d*) the expenses necessary for the administration of the estate or otherwise.

(***2***) Subject to the provisions of sub-section (***1***), all money in hand shall be distributed as dividends.

(***3***) Any creditor who has not proved his debt before the declaration of any dividend or dividends, shall be entitled to be paid, out of any money for the time being in the hands of the Court or, where a receiver has been appointed, of the receiver, any dividend or dividends which he may have failed to receive before that money is applied to the payment of any future dividend or dividends; but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

(***4***) No action for a dividend shall lie against the receiver, but, where the receiver refuses to pay any dividend, the Court may, if it thinks fit, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld, and the costs of the application.

[New. *Cf. ibid.*, s. 6]

Management by and allowance to insolvent.

360G. (***1***) The Court or, by leave of the Court, the receiver may appoint the insolvent himself to superintend the management of the property of the insolvent or of any part thereof, or to carry on the trade (if any) of the insolvent for the benefit of the creditors, and in any other respect to aid in administering the property in such manner and on such terms as the Court or, by leave of the Court, the receiver may direct.

(***2***) The Court or, by leave of the Court, the receiver may, from time to time, make such allowance as it or he may think just to the insolvent out of his property for the support of himself and his family, or in consideration of his services if he is engaged in winding up his estate; but any such allowance may, at any time, be reduced by the Court.

[New. *Cf.* 46 & 47 Vict., c. 52, s. 65.]

Right of insolvent to surplus.

360GG. The insolvent shall be entitled to any surplus remaining after payment in full of his creditors, with interest as provided by this Chapter, and of the costs, charges and expenses of the proceedings taken thereunder.

[New. *Cf.* 53 & 54 Vict., c. 71, s. 8.]

Discharge.

360H. (***1***) A debtor may, at any time after having been declared an insolvent, apply to the Court for an order of discharge; and the Court shall fix a day ***and hour,*** notice whereof shall be given in the manner provided by section 348, sub-section (***3***), for hearing such application, and any objections which may be made thereto.

(***2***) Subject to the provisions of ***this*** section, the Court may, after hearing the objections of any creditor or, where a receiver has been appointed, of the receiver,—

(*a*) grant or refuse an absolute order of discharge; or

(*b*) suspend the operation of the order for a specified time; or

(*c*) grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the insolvent or

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XXI.—Of Insolvency.—Section 360H.)

with respect to his after-acquired property.

(*3*) The Court shall refuse an order of discharge where the insolvent has committed an offence in relation to his insolvency, unless, for reasons to be recorded, it is satisfied that such refusal is not required in the interests of stice.

(*4*) On proof of any of the facts mentioned in sub-section (*5*), the Court shall—

(*a*) refuse the discharge; or

(*b*) suspend the discharge for a period of not less than two years; or

(*c*) suspend the discharge, until a dividend of not less than eight annas in the rupee has been paid to the creditors; or,

(*d*) where a receiver has been appointed, require the insolvent as a condition of his discharge to consent to ***an order for payment to*** such receiver for any balance or part of any balance of debts provable under this Chapter but not satisfied at the date of discharge, such balance or part of any balance to be paid out of the future earnings or after-acquired property of the insolvent in such manner and subject to such conditions as the Court may direct, ***and any such order shall be capable of execution as if it were a decree:***

Provided that, if at any time after the expiration of two years from the date of an order made under this section, the insolvent satisfies the Court that there is no reasonable probability of his being in a position to comply with the terms of the order, the Court may modify the terms of the order or of any substituted order, in such manner and upon such conditions as it thinks fit:

Provided, also, that application for execution of ***an order made*** in favour of a receiver under clause (*d*) shall not be made except by leave of the Court, which ***shall not*** be given ***unless*** on proof that the insolvent has, since his discharge, acquired property or income available towards the payment of his debts.

(*5*) The facts referred to in sub-section (*4*) are—

(*a*) that the insolvent's assets are not of a value equal to eight annas in the rupee on the amount of his unsecured liabilities, unless he satisfies the Court that the fact that the assets are not of a value equal to eight annas in the rupee on the amount of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible;

(*b*) that the insolvent has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his insolvency;

(*c*) that the insolvent has continued to trade after knowing himself to be insolvent;

(*d*) that the insolvent has contracted any debt provable under this Chapter without having at the time of contracting it any reasonable or probable ground of expectation (the burden of proving which shall lie on him) that he would be able to pay it;

(*e*) that the insolvent has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;

(*f*) that the insolvent has brought on, or contributed to, his insolvency by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs;

(*g*) that the insolvent has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any ***suit or other proceeding*** properly ***instituted*** against him;

(*h*) that the insolvent has within three months preceding the date of the order under section 348, sub-section (*1*), incurred unjustifiable expense by instituting a frivolous or vexatious suit or other proceeding;

(*i*) that the insolvent has within the period referred to in clause (*h*), when unable to pay his debts as they become due, given an undue preference to any of his creditors;

(*j*) that the insolvent has within the period referred to in clause (*h*) incurred liabilities with a view of making his assets equal to eight annas in the rupee on the amount of his unsecured liabilities;

(*k*) that the insolvent has on any previous occasion been declared an insolvent, or made a composition or arrangement with his creditors;

(*l*) that the insolvent has ***concealed or removed his property or any part thereof or has*** been guilty

The Code of Civil Procedure, 190 .

(Part II.—Of Suits in General.—Chapter XXI.—Of Insolvency.—Sections 360I, 360J, 360K-360M.)

of any ***other*** fraud or fraudulent breach of trust.

(*6*) For the purposes of this section, the report of an official receiver shall be deemed to be evidence; and the Court may presume the correctness of any statement contained therein.

(*7*) The powers of suspending, and of attaching conditions to, an insolvent's discharge may be exercised concurrently.

(*8*) A discharged insolvent shall, notwithstanding his discharge, give such assistance as the Court or, where a receiver has been appointed, the receiver may require in the realization and distribution of such of his property as is vested in the Court or the receiver; and, if he fails to give such assistance, the Court may, in addition to any punishment to which he may be liable, revoke his discharge, but without prejudice to the validity of any sale, disposition or payment duly made or anything duly done after the discharge but before the revocation.

Explanation.—For the purposes of this section, an insolvent's assets shall be deemed to be of a value equal to eight annas in the rupee on the amount of his unsecured liabilities when the Court is satisfied that his property has realized, or is likely to realize, or with due care in realization might have realized, an amount equal to eight annas in the rupee on his unsecured liabilities.

[New. *Cf.* 46 & 47 Vict., c. 52, s. 30.]

Effect of order of discharge.

360I. (*1*) An order of discharge shall not release the insolvent from—

(*a*) any debt due to ***His Majesty***; or

(*b*) any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party;

(*c*) any debt or liability in respect of which he has obtained forbearance by any fraud to which he was a party.

(*2*) Save as otherwise provided by sub-section (*1*), an order of discharge shall release the insolvent from all debts provable under this Chapter.

(*3*) An order of discharge shall be conclusive evidence of the insolvency and of the validity of the proceedings therein, and, in any ***suit or other*** proceeding instituted against an insolvent who has obtained an order of discharge in respect of any debt from which he is released by the order, the insolvent may plead that the cause of action occurred before his discharge.

(*4*) An order of discharge shall not release any person who at the date of the receiving order was a partner or co-trustee with the insolvent or was jointly bound or had made any joint contract with him, or any person who was surety for him.

[New. *Cf. ibid.*, s. 35.]

Power to annul declaration of insolvency.

360J. (*1*) Where, in the opinion of the Court, a debtor ought not to have been declared an insolvent, or where it is proved to the satisfaction of the Court that the debts of the insolvent have been paid in full, the Court may, on the application of ***the debtor or of*** any ***other*** person interested, by order in writing, annul the declaration.

(*2*) Where a declaration is annulled under sub-section (*1*), all sales and dispositions of property and payments duly made, and all acts theretofore done, by the Court, officer of the Court or receiver shall be valid; but, ***subject as aforesaid,*** the property of the debtor who was declared an insolvent shall vest in such person as the Court may appoint or, in default of any such appointment, shall ***vest in*** the debtor ***to the extent of*** his ***right*** or interest therein ***on*** such conditions (if any) as the Court may, by order in writing, declare.

(*3*) Notice of every order annulling a declaration shall be given in the manner provided by section 348, sub-section (*3*).

Imprisonment of dishonest debtor.

360K. Where it is proved to the satisfaction of the Court that a debtor who has made an application under section 346 or against whom such an application has been made,— [359.]

(*a*) has been guilty of any concealment or wilful mis-statement in regard either to pecuniary claims against him or to property belonging to him, whether in possession or in expectancy, or held for him in trust, or

(*b*) has fraudulently concealed, transferred or removed any property, or

(*c*) has committed any other act of bad faith regarding the matter of the application,

the Court may, at the instance of any of his creditors, ***direct*** him to ***be detained in the civil prison*** for a term which may extend to one year, or may, if it thinks fit, send him to a Magistrate to be dealt with according to law.

Undischarged insolvent obtaining credit.

360L. An undischarged insolvent obtaining credit to the extent of fifty rupees or upwards from any person without informing such person that he is an undischarged insolvent shall, on conviction by a Magistrate, be punishable with imprisonment for a term which may extend to six months. [New. *Cf.* 46 & 47 Vict., c. 52, s. 41.]

Subordination of Courts and appeals.

360M. (*1*) For the purposes of this Chapter, all Courts other than a High Court or a District Court shall, when exercising insolvency jurisdiction ***under this Chapter***, be deemed to be subordinate to the District Court. [New.]

(*2*) Save as otherwise provided by sub-section (*4*), any person aggrieved by an order made in the exercise of insolvency jurisdiction by the Court subordinate to a District Court may appeal to the District Court, whose order upon such appeal shall be final ***and conclusive.***

(*3*) Any person aggrieved by an order made under section 352, 353, 360E, ***360F, sub-section (4),*** 360H, 360J or 360K, by the District Court otherwise than in appeal from an order made by a subordinate Court, may appeal to the High Court.

(*4*) Where an appeal to the District Court has been transferred for disposal to a subordinate Court, such subordinate Court shall, for the purposes of sub-sections (*2*) and (*3*), be deemed to be the District Court.

The Code of Civil Procedure, 190 .

(Part III.—Of Incidental Proceedings.—Chapter XXII.—Of the Death, Marriage and Insolvency of Parties.—Sections 361-368.)

PART III.

OF INCIDENTAL PROCEEDINGS.

CHAPTER XXII.

OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

No abatement by party's death, if right to sue survives.

361. The death of a plaintiff or defendant shall not cause the suit to abate if the right to sue survives.

Illustrations.

(*a*) A sues B for libel. A dies. The right to sue does not survive, and the suit abates.

(*b*) A, a member of a Hindu joint family under the *Dayabhaga* law, institutes a suit for partition of the family property. A dies, leaving B, a son, his heir. The right to sue survives to B, and the suit does not abate.

Procedure where one of several plaintiffs or defendants dies and right to sue survives.

362. Where there are two or more plaintiffs or defendants and any of them dies, and where the right to sue survives to the surviving plaintiff or plaintiffs alone or against the surviving defendant or defendants alone, the Court shall cause an entry to that effect to be made on the record, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants.

[Substituted by VII of 1888, s. 32 (1).]

Procedure where one of several plaintiffs dies and right to sue does not survive to surviving plaintiffs alone or where sole, or sole surviving, plaintiff dies.

363. (*1*) Where there are two or more plaintiffs and any of them dies, and where the right to sue does not survive to the surviving plaintiff or plaintiffs alone but survives to him or them and the legal representative of a deceased plaintiff jointly, the Court may cause the legal representative (if any) of the deceased plaintiff to be made a party, and shall thereupon cause an entry to that effect to be made on the record and proceed with the suit.

[365.] Substituted by VII of 1888, s. 32 (1).]

(*2*) Where a sole plaintiff or sole surviving plaintiff dies and the right to sue survives, the legal representative of the deceased plaintiff may apply to the Court to have his name entered on the record in place of the deceased plaintiff, and the Court shall thereupon cause his name to be *so* entered and proceed with the suit.

(3) Where there are two or more legal representatives of the deceased plaintiff, both or all such legal representatives shall be made parties under sub-section (1), or the names of both or all of them shall be entered under sub-section (2), whether as plaintiffs or defendants.

Abatement where no application by representative of deceased plaintiff.

366. Where within the time fixed by the law of limitation for the time being in force no application under section ***363, sub-section (2)***, is made to the Court by any person claiming to be the legal representative of a deceased plaintiff,—

(*a*) the Court may ***by*** order ***declare*** that the suit ***has*** abated, and shall, on the application of the defendant, award to the defendant the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff; or

(*b*) the Court may, if it thinks fit, on the application of the defendant and upon such terms as to costs or otherwise as it thinks fit, make such other order as it thinks fit for bringing in the legal representative of the deceased plaintiff, or for proceeding with the suit in order to a final determination of the matter in dispute, or for both those purposes.

Explanation.—Save in so far as is otherwise provided by the Succession Certificate Act, 1889, or by any other law for the time being in force, a certificate of heirship, or a certificate to collect debts, does not of itself constitute the person holding it the legal representative of a deceased plaintiff; but, where the person holding any such certificate obtains thereby property belonging to the deceased plaintiff, he may be treated as a legal representative liable in respect of such property. VII of 1889.

Procedure where dispute as to representative of deceased plaintiff.

367. Where any dispute arises as to who is the legal representative of a deceased plaintiff, the Court may either stay the suit until the fact has been determined in another suit, or decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Procedure where defendant dies before decree.

368. (*1*) Where at any time before the decree in a suit is passed— [Amended by VII of 1888, s. 82 (3).]

(*a*) one of two or more defendants dies and the right to sue does not survive against the surviving defendant or defendants alone, or

(*b*) a sole defendant or sole surviving defendant dies and the right to sue survives,

the plaintiff may make an application to the Court, specifying the name, description and place of ***residence*** of any person whom he alleges to be the legal representative of the deceased defendant, and whom he desires to be made the defendant in his stead.

(*2*) The Court shall thereupon enter the name of such representative on the record in the place of such defendant, and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the suit; and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit :

The Code of Civil Procedure, 190 .

(Part III.—Of Incidental Proceedings.—Chapter XXII.—Of the Death, Marriage and Insolvency of Parties.—Sections 368A, 368B, 368C-372.)

Provided that the person so made a defendant may object that he is not the legal representative of the deceased defendant, or may make any defence appropriate to his character as such representative.

(*3*) Where within the time fixed by the law of limitation for the time being in force no application under sub-section (*1*) is made, the ***Court*** shall ***by order declare that the suit has*** abate*d*, unless the plaintiff satisfies the Court that he had sufficient cause for not making the application within such time.

(*4*) The legal representative of a deceased defendant may apply to have himself made a defendant in place of the deceased defendant, and the provisions of this section shall, so far as they are applicable, be deemed to apply to the application and to the proceedings and consequences ensuing thereon.

[New.] ***368A. For the purposes of sections 363 to 368, the term "legal representative" shall be deemed to include the Crown where and in so far as the Crown is entitled to the property of a deceased plaintiff or defendant.***

Legal representative in case of escheat.

368B. Where—

Application of sections 363 to 368 to suits by or against person in representative capacity or as holder of office.

(*a*) ***a plaintiff or defendant, suing or being sued in a representative capacity or as the holder of an office, dies or is otherwise divested of his representative capacity or office during the suit, and***

(*b*) ***another person fills, or in good faith claims to fill, such representative capacity or office,***

the provisions of sections 363 to 368 shall, so far as they are applicable, be deemed to apply as if such other person were the legal representative of the plaintiff or defendant.

Explanation.—For the purposes of this section, a Hindu or Muhammadan female, suing or being sued in respect of a claim upon which the adjudication will, under the provisions of section 13, condition II, clause (b), sub-head (i), operate as res judicata in favour of or against the reversioner of the last male holder entitled to succeed to property on the death or remarriage of such female, shall be deemed, within the meaning of clause (a), to sue or be sued in a representative capacity, and the reversioner shall be deemed, within the meaning of clause (b), to fill the representative capacity of such female.

368C. Notwithstanding anything contained in the foregoing provisions of this Chapter, no judgment, decree or proceeding subsequent to judgment or decree shall be invalid merely because such judgment was delivered, or such decree was passed, or such proceeding was taken, by the Court in ignorance of the death of any party.

Saving of proceedings taken in ignorance of death of party.

369. (*1*) The marriage of a female plaintiff or defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and, where the decree is against a female defendant, it may thereupon be executed against her alone.

Suit not abated by marriage of female party.

(2) Where the husband is by law liable for the debts of his wife, the decree may, by leave of the Court, be executed against the husband also; and, in the case of judgment for the wife, execution of the decree may, by such leave, be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree.

370. The insolvency of a plaintiff in any suit which his assignee or the receiver appointed under section 354 might maintain for the benefit of his creditors, shall not ***cause*** the suit ***to abate:***

Where plaintiff's insolvency *causes abatement of the* suit.

Provided that, where the assignee or receiver neglects or refuses to continue the suit and to give such security ***for the costs thereof*** within ***such*** time ***as the Court may*** order, the defendant may apply for the dismissal of the suit on the ground of the plaintiff's insolvency, and the Court may dismiss the suit and award to the defendant the costs which he has incurred in defending the same, to be proved as a debt against the plaintiff's estate.

371. Where a suit abates or is dismissed under this Chapter, no fresh suit shall be brought on the same cause of action:

Effect of abatement or dismissal.

Provided that the person claiming to be the legal representative of a deceased ***or*** insolvent plaintiff may apply for an order to set aside the abatement or dismissal; and, if it is proved that he was prevented by any sufficient cause from continuing the suit, the Court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

372. (*1*) In other cases of the assignment, creation or devolution of any interest before a final ***decree or*** order has been ***passed or*** made in a suit, whether in first instance or in appeal, the suit may, by leave of the Court given either with the consent of all parties or after service of notice in writing upon them and hearing their objections (if any), be continued by or against the person to whom such interest has come, either in addition to or in substitution for the person from whom it has passed, as the case may require.

Procedure in case of assignment before final order in suit.

The Code of Civil Procedure, 190 .

Part III.—Of Incidental Proceedings.—Chapter XXII.—Of the Death, Marriage and Insolvency of Parties.—Section 372B. Chapter XXIII.—Of the Withdrawal and Adjustment of Suits.—Sections 373-375, 375A, 375B. Chapter XXIV.—Of Payment into Court.—Sections 376, 379.)

(2) Where leave to continue a suit has been given under sub-section (1), such suit shall be deemed to have been instituted by or against the person to whom the interest has come, on the day on which it was instituted by or against the person from whom such interest has passed.

Application of Chapter to proceedings.

372B. (*1*) Nothing in ***sections 366, 368, sub-section (3), and 371*** shall apply to proceedings in execution of decrees.

(2) Save as otherwise provided by sub-section (1), the provisions of this Chapter relating to suits shall be deemed to apply also to proceedings other than suits.

CHAPTER XXIII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

Withdrawal of suit or abandonment of part of claim.

373. (*1*) At any time after the institution of a suit, ***the plaintiff may, subject to such order as the Court may make in regard to costs, withdraw his suit or abandon part of his claim.***

(*2*) Where the Court is satisfied—

(*a*) that a suit must fail by reason of some formal defect, or

(*b*) that there are other sufficient grounds for allowing the plaintiff to ***institute*** a fresh suit for the subject-matter of ***a*** suit or part ***of a claim,***

it may, on such terms as it thinks fit, grant ***the plaintiff*** permission to withdraw from such suit or abandon such part of a claim with liberty to bring a fresh suit in respect of the subject-matter of such suit or ***such*** part ***of a claim.***

(*3*) Where the plaintiff withdraws from a suit, or abandons a part of a claim, without the permission referred to in sub-section (*2*), he shall be precluded from bringing any fresh suit as aforesaid.

(*4*) Nothing in this section shall be deemed to authorize the Court to permit ***any co-plaintiff or co-***plaintiffs to withdraw without the consent of the others.

(*5*) The powers conferred by this section may be exercised by the Court at any stage of the suit, whether in first instance or in appeal, before a final order is made.

Limitation not affected by first suit.

374. In any fresh suit instituted on permission granted under section 373, the plaintiff shall be bound **by the law of limitation for the time being in force** in the same manner as if the first suit had not been brought, and nothing in section **43 shall be deemed to preclude him from seeking in the fresh suit any relief omitted from the first.**

Compromise of suit.

375. ***Where any party to a suit reports to the Court that such suit has been adjusted wholly or in part by a lawful agreement or compromise, or that the plaintiff has received satisfaction in respect of the whole or any part of the subject-matter of the suit, the Court shall,—***

(a) if the parties are agreed as to such agreement, compromise or satisfaction, record the same and pass a decree in accordance therewith so far as it relates to the suit, and such decree shall be final and conclusive so far as it relates to so much of the subject-matter of the suit as is dealt with by the agreement, compromise or satisfaction; but,

(b) if the parties are not so agreed, proceed with the trial of the suit.

Application subsequent to decree not affected.

375A. Nothing in this Chapter shall be deemed to apply to any application or other proceeding in any suit subsequent to the ***final*** decree ***other than an application to an Appellate Court pending an appeal from such decree.*** **[Added by Act VI of 1892, s. 2.]**

Application of Chapter to set-off and counter-claims.

375B. ***The provisions of this Chapter relating to a plaintiff shall, so far as they are applicable, be deemed to apply to a defendant who has pleaded a set-off or counter-claim.***

CHAPTER XXIV.

OF PAYMENT INTO COURT.

Deposit by defendant in satisfaction of claim.

376. (*1*) The defendant in a suit to recover a debt or damages may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the claim.

(*2*) Notice in writing of such deposit shall be given through the Court by the defendant to the plaintiff, and the sum deposited shall, unless the Court otherwise directs, be paid to the plaintiff on his application. [377.]

(*3*) From the date of the receipt by the plaintiff of such notice, no interest shall be allowed to the plaintiff on the sum deposited by the defendant, whether it is in full satisfaction of the claim or falls short thereof. [378.]

Procedure where plaintiff accepts deposit as satisfaction in part or in full.

379. (*1*) Where the plaintiff accepts the sum deposited under section 376 as satisfaction in part only of his claim, he may prosecute his suit for the balance; and, if the Court decides that the sum so deposited was a full satisfaction of the plaintiff's claim, the plaintiff shall bear the costs of the suit incurred after the deposit, and the costs incurred previous*ly* thereto so far as they were caused by excess in the plaintiff's claim.

(*2*) Where the plaintiff accepts the sum deposited under section 376 as satisfaction in full of his claim, he shall present to the Court a statement to that effect, and such statement shall be filed and the Court shall ***pass a decree*** accordingly; and, in directing by whom

The Code of Civil Procedure, 190.

(Part III.—Of Incidental Proceedings.—Chapter XXIV.—Of Payment into Court. —Section 379A. Chapter XXV.—Of requiring Security for Costs.—Sections 380, 381.) Chapter XXVI.—Of Commissions and Local Investigations.—Section 383.)

the costs of each party are to be **borne**, the Court shall consider which of the parties is most to blame for the litigation.

Illustrations.

(*a*) A owes B Rs. 100. B sues A for the amount, having made no demand for payment and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into Court. B accepts it in full satisfaction of his claim. The Court should not allow him any costs, the litigation being presumably groundless on his part.

(*b*) B sues A under the circumstances mentioned in illustration (*a*). On the plaint being filed, A disputes the claim. Afterwards A pays the money into Court. B accepts it in full satisfaction of his claim. The Court should also give B his costs of suit, A's conduct having shown that the litigation was necessary.

(*c*) A owes B Rs. 100 and is willing to pay him that sum without suit. B claims Rs. 150 and sues A for that amount. On the plaint being filed, A pays Rs. 100 into Court and disputes only his liability to pay the remaining Rs. 50. B accepts the Rs. 100 in full satisfaction of his claim. The Court should order him to pay A's costs.

[New.] **379A. The provisions of this Chapter shall, so far as they are applicable, be deemed to apply to payments made under section 257.**

Chapter to apply to payments under section 257.

CHAPTER XXV.

OF REQUIRING SECURITY FOR COSTS.

[Amended by VI of 1888, s. 5.] 380. (*1*) **Where**, at the institution or at any subsequent stage of a suit, it appears to the Court that a sole plaintiff is, or **that**, where there are **two** or more plaintiffs, all the plaintiffs are, residing out of British India, and that such plaintiff does not, or that no one of such plaintiffs does, possess any sufficient immoveable property within British India ***other than*** the property in suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time to be fixed by the order, to furnish security for the payment of all costs incurred and likely to be incurred by any defendant.

Security for costs when demandable from plaintiff.

[382.] ***Explanation.*—For the purposes of this sub-section, a person leaving** British India in such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs, shall be deemed to be residing out of British India.

(*2*) ***Where and in so far as*** a suit, in which the plaintiff is a woman, ***is a suit* for the payment of money *or* to recover possession of specified moveable property or, in the alternative, the value of such property in money,** the Court may at any stage of the suit, ***on the application of any defendant,*** make a like order if it is satisfied that **the** plaintiff does not possess any sufficient immoveable property within British India, ***other than*** the property in suit.

[Amended by VII of 1882 s. 33.] 381. (*1*) **Where security required under section 380 is not furnished** within the time fixed thereunder, the Court shall dismiss the suit in **so far as it relates to any defendant *and any co-defendant associated with him by reason of having been sued for a joint and indivisible relief* for whose costs security has not been furnished,** unless the sufficient cause why such time should be extended **is shown to the satisfaction of the** Court, in which case the Court may extend it.

Effect of failure to furnish security.

(*2*) Where a suit is dismissed under this section, the plaintiff may apply for an order to set the dismissal aside, and, if it is **shown** to the satisfaction of the Court that **the plaintiff** was prevented by any sufficient cause from furnishing the security within the time **fixed**, the Court shall set aside the dismissal upon such terms as to security, costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit:

Provided that the dismissal shall not be set aside unless the plaintiff has served the defendant with notice in writing of his application.

(*3*) The provisions of the Indian Limitation Act, 1877, with respect to an application under section 103, and of this Code with respect to an appeal from an order rejecting such an application, shall, so far as they are applicable, **be deemed to apply** to an application under this section for an order to set aside the dismissal of a suit and to an appeal from an order rejecting such an application, respectively. XV of 1877.

(*4*) Nothing in section 13 shall be deemed to preclude a pliantiff whose suit has been dismissed under this section for failure to furnish security, from pleading the subject-matter of such suit in answer *or by way of set-off or counter-claim* to any suit instituted against him, or from instituting, within the time allowed by the law of limitation for the time being in force, a fresh suit upon the same cause of action:

Provided that such *set-off, counter-claim or* fresh suit shall be dismissed unless, at or before the time of presenting the plaint or within such further period as the Court may fix, the plaintiff pays all the costs (if any) which he was in the previous suit ordered to bear *and gives such security (if any) as the Court may require for the costs incurred or likely to be incurred by the opposite party in respect of such set-off, counter-claim or fresh suit.*

CHAPTER XXVI.

OF COMMISSIONS ***and Local Investigations.***

Commissions for the examination of witnesses.

383. (*1*) Any Court may in any suit ***or other proceeding*** issue a commission for the examination on interrogatories or otherwise of **any** person resident within the local limits of its jurisdiction, who **is** exempted under this Code from attending the Court, or who **is** from sickness or infirmity unable to attend it.

Commission for examination of person within jurisdiction.

(*2*) Such order may be made by the Court either of its own motion or on the application, supported by affidavit or otherwise, of any party or of the witness to be examined. [384]

(*3*) **Such** commission may be issued to any person whom the Court thinks fit to execute **it.** [385.]

The Code of Civil Procedure, 190 .

(Part III.—Of Incidental Proceedings.—Chapter XXVI.—Of Commissions and Local Investigations.—Sections 386-388, 390, 391.)

[Amended by VII of 1888, s. 34. and VI of 1900, s. 48.]

Commission for examination of person beyond or leaving jurisdiction or of officer.

386. (*1*) Any Court may in any suit ***or other proceeding*** issue a commission for the examination on interrogatories or otherwise of—

(*a*) any person resident beyond the local limits of its jurisdiction;

(*b*) any person who is about to leave such limits before the date on which he is required to be examined in Court; and

(*c*) any civil or military officer of the Government who cannot, in the opinion of the Judge, attend the Court without detriment to the public service.

(*2*) Such commission may be issued to any Court, not being a High Court within the local limits of whose jurisdiction such person resides, or to any pleader or other person whom the Court issuing the commission may, subject to any rules made by the High Court in this behalf, think fit to appoint.

(*3*) The Court on issuing such a commission shall direct whether the commission is to be returned to itself or to any subordinate Court.

Commission for examination of person outside British India.

387. Where the Court to which application is made for the issue of a commission for the examination of a person residing at any place not within British India, is satisfied that the evidence of such person is necessary, the Court may, subject to the provisions, where applicable, of the Evidence by Commission Acts, 1859 ***and 1885,*** issue such commission.

22 Vict., c. 2. 48 & 49 Vict., c. 74.

Duty and powers of Court receiving commission for examination of person.

388. (*1*) Every Court receiving a commission for the examination of a person shall ***either—***

(*a*) examine such person in pursuance of the commission, ***or***

(b) make over such examination to any subordinate Court or to any pleader or other person whom it may, subject to any rules made by the High Court in this behalf, think fit to appoint.

(*2*) ***Where the Court makes over the examination to a pleader or other person under clause (b) of sub-section (1) and a sum sufficient for the reasonable expenses of such execution of the commission has not been transmitted by the Court issuing the commission, it shall report to the Court issuing the commission the amount of the sum required.***

(*3*) ***Every Court which receives a commission for the examination of any person, and every person to whom such examination is made over under clause (b) of sub-section (1), shall give notice of the day and hour fixed for its or his proceedings to the parties, other than a defendant against whom the suit or other proceeding is being heard ex parte, either directly or through the Court which issued or received the commission, as the nature of the case may require.***

(*4*) After the commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court from which it was issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in accordance with the terms of such order; and the commission and the return thereto, and the evidence taken under it, shall, subject to the provisions of section 390, form part of the record of the suit ***or other proceeding.*** [389]

When depositions may be read in evidence.

390. Evidence taken under a commission shall not be read as evidence in the suit ***or other proceeding*** without the consent of the party against whom the same is offered, unless—

(*a*) the person who gave the evidence is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, ***or is a civil or military officer of the Government who cannot, in the opinion of the Judge, attend the Court without detriment to the public service,*** or

(*b*) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in clause (*a*), and authorizes the evidence of any person being read as evidence in the suit ***or other proceeding,*** notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

Provisions as to execution and return of commissions to apply to commissions issued by foreign Courts.

391. The provisions hereinbefore contained as to the execution and return of commissions shall apply to commissions issued by—

(*a*) Courts situate beyond the limits of British India and established ***or continued*** by the authority of His Majesty or of the Governor General in Council, or

(*b*) Courts situate in the United Kingdom or in any British possession, or

(*c*) the Courts of any foreign country for the time being in alliance with His Majesty.

The Code of Civil Procedure, 190 .

(Part III.—Of Incidental Proceedings.—Chapter XXVI.—Of Commissions and Local Investigations—Sections 391A, 392, 394, 396.)

Local investigations and commissions for such investigations.

[New.] 391A. ***Any Court may, if it thinks fit, after notice to the parties, hold the trial of a suit or other proceeding or any part of a suit or other proceeding at any place connected with the subject-matter of such suit or proceeding.***

Power to hold trial on spot.

391AA. ***(1) Any Judge may, after notice given to the parties, inspect any place connected with a trial before him and may make a memorandum of any facts observed.***

Local inspection.

(2) A memorandum made by the Judge of any facts observed at an inspection under sub-section (1) may, if the Judge so directs, be placed upon, and shall then form part of, the record:

Provided that the Judge shall first hear and determine any objection which any party may make to the memorandum, and shall, if necessary, correct it accordingly.

(3) Nothing in this section shall be deemed to limit or otherwise affect the power of a Judge to inspect any place, without notice, with a view merely to more readily appreciating any evidence tendered, or to be tendered, in relation to it.

(4) The fact of an inspection having been made, or of memorandum having been placed on the record, under this section shall not entitle any person to call the Judge as a witness or to examine him upon the facts observed.

392. (***1***) In any suit or ***other*** proceeding in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in *controversy* or of ascertaining the market-value of any property, or the amount of any mesne profits, damages or annual net profits, and such local investigation cannot conveniently be conducted by the Judge himself, the Court may issue a commission to such person as it thinks fit, directing him to make such local investigation and to report thereon to the Court:

Commission for local investigation.

[393.] Provided that, where the Local Government has made rules as to the persons to whom such commissions shall be issued, the Court shall be bound by such rules.

(***2***) The Commissioner, after such local inspection as he deems necessary, and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing, signed ***by him,*** to the Court.

(***3***) The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit ***or other proceeding*** and shall form part of the record; but the Court, or, by leave of the Court, any of the parties to the suit, may examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to the manner in which he has made the investigation.

(4) The Court, if for any reason it is dissatisfied with the proceedings of the Commissioner, may direct that such further enquiry be made as it may deem necessary.

Commissions ***for the examination or adjustment of*** *accounts.*

394. (***1***) In any suit ***or other proceeding*** in which an examination or adjustment of accounts is necessary, the Court may issue a commission to such person as it thinks fit directing him to make such examination or adjustment.

Commission to examine or adjust accounts.

(***2***) The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as appear necessary, and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination. [3

(***3***) The proceedings of the Commissioner shall be received in evidence in the suit ***or other proceeding,*** unless the Court has reason to be dissatisfied with them, in which case the Court shall direct such further inquiry as is requisite.

Commissions ***for the making of*** *partitions.*

396. (***1***) Where ***a preliminary decree for partition has been passed under section 215B,*** the Court may, in any case not provided for by the provisions of section 265, issue a commission to such person or persons as it thinks fit to make ***the*** partition or separation according to ***the*** rights ***as declared in such decree.***

Commission to make partition of non-revenue-paying immoveable property.

(***2***) The Commissioner or Commissioners shall ascertain and inspect the property, and shall divide the same into as many shares as may be directed by the order under which the commission was issued, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

(***3***) The Commissioner or Commissioners shall then prepare and sign a report, or, where the commission was issued to more than one person and they cannot agree, separate reports appointing the share of each party, and, if so directed by the said order, distinguishing each share by metes and bounds.

(***4***) ***The*** report or reports ***referred to in sub-section*** (***3***) shall be annexed to the commission and transmitted to the Court; and the Court, after hearing any objections which the parties may make to the report or reports, shall either quash the same and issue a new commission, or pass a final decree in accordance therewith ***or with so much of the report or reports as the Court finds to be correct.***

(5) Nothing in this section shall be deemed to preclude the Court from returning a report to a Commissioner for the correction of any error appearing therein.

The Code of Civil Procedure, 190 .

(Part III.—Of Incidental Proceedings.—Chapter XXVI.—Of Commissions and Local Investigations.—Sections 387A, 397-400. Part IV.—Of Suits in Particular Cases.—Chapter XXVII.—Suits by Paupers.—Sections 401—402.)

General provisions ***as to commissions.***

Notice.

387A. A Court shall not issue a commission either of its own motion or on the application of a party or witness, without giving notice to any party affected thereby, other than a ***party*** **against whom the suit is** ***being heard ex parte, unless such party affected is present when the commission is issued.***

Expenses of commission to be paid into Court.

397. (*1*) Before issuing a commission under this Chapter, the Court may ***and, upon receiving a report of the nature referred to in section 388, sub-section (2), it shall*** order such sum (if any) as it thinks reasonable for the expenses of the commission to be, within a time to be fixed by the Court, paid into Court by the party at whose instance or for whose benefit the commission is issued.

(*2*) Where the sum required to be paid into Court for the expenses of a commission is capable only of being estimated by the period likely to be occupied in executing such commission and a Commissioner appointed under this Chapter finds that he will be unable to execute such commission within such period, he shall submit a report to the Court within a reasonable time before the date by which the commission is returnable.

(*3*) Upon receiving ***a*** **report** ***of the nature referred to in sub-section (2),*** **the Court may make an order enlarging the date for the return of the commission** ***or, if the date has already elapsed, fixing a fresh date for such return*** **and requiring such further sum (if any) as it thinks reasonable to be, within a time to be fixed by the Court, paid into Court as expenses.**

(*4*) Any person omitting to pay into Court any sum required to be paid under this section shall be deemed, within the meaning of section 158, to have failed to perform an act necessary to the further progress of the suit for which time has been allowed.

Powers of Commissioners.

398. Any Commissioner appointed under this Chapter may, unless otherwise directed by the order of appointment,—

(*a*) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him;

(*b*) call for and examine documents and other things relevant to the subject of inquiry;

(*c*) at any reasonable time enter upon or into any land or building mentioned in the order.

Attendance, examination and punishment of witnesses before Commissioners.

399. (*1*) The provisions of this Code relating to the summoning, attendance and examination of witnesses, and to the remuneration of, and penalties to be imposed upon, witnesses, shall, so far as they are applicable, be deemed to apply to persons required to give evidence or to produce documents under this Chapter, whether the commission in execution of which they are so required has been issued by a Court situate within, or by a Court situate beyond, the limits of British India; and, for the purposes of this sub-section, every Commissioner shall be deemed to be a Court.

(*2*) Save where a commission is issued, ***or the examination of any person has been made over,*** **to a Court within the local limits of whose jurisdiction a witness resides, the Commissioner shall** ***apply to such*** **Court** ***for the issue of*** **any process which he may find it necessary to issue to or against such witness,** ***and such Court may, in its discretion, issue such process as it considers reasonable and proper.***

Appearance of parties before Commissioner.

400. (*1*) Where a commission is issued under this Chapter, the Court shall direct that the parties to the suit ***or other proceeding*** shall appear before the Commissioner in person or by their agents or pleaders.

(*2*) **Where** ***all or any of the*** parties, after **due notice of the time and place fixed for proceeding,** do not so appear, the Commissioner may proceed ***in their absence.***

PART IV.

OF SUITS IN PARTICULAR CASES.

CHAPTER XXVII.

SUITS BY PAUPERS.

Institution or continuation of suit by a person as a pauper.

401. Any suit, **other than** a suit to recover compensation for loss of caste, libel, slander, abusive language or assault, **may, subject to the provisions of this Chapter, be instituted or, if instituted in the ordinary manner, continued by a person as a pauper.** [401 and 402.]

Who may apply to institute or continue suit as pauper.

402. Any person may apply for permission to institute or continue a suit as a pauper, if,—

(*a*) where the application is to institute a suit and a court-fee is prescribed for the plaint by the law for the time being in force relating to court-fees, he is not possessed of sufficient means to enable him to pay **such court**-fee, **or,**

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases.—Chapter XXVII.—Suits by Paupers.—Sections 403, 406—409.)

(b) where the application is—

(i) to institute a suit in which no **court-fee** is **so** prescribed **for the plaint, or**

(ii) to continue a suit,

he is not entitled to property worth one hundred rupees other than his necessary wearing-apparel and the subject-matter of the suit.

403. (*1*) Every application for permission to **institute or continue a suit as** a pauper shall be in writing; a schedule of any moveable or immoveable property belonging to the **applicant,** with the estimated value thereof, shall be annexed thereto; and it shall be signed and verified in the manner hereinbefore prescribed for the signing and verification of plaints.

Contents, signature, verification and presentation of application.

[404.] **(*2*) Every such application, if it is for permission to institute a suit as a pauper, shall also contain the particulars required by section 50, *and shall be subject to the same conditions as to amendment or rejection as if it were a plaint.***

(*3*) Notwithstanding anything contained in section 36, **every such** application shall be presented to the Court by the applicant in person, unless he is exempted from appearing in Court under section 640 or section 641, in which case the application may be presented by **a** duly authorized agent who can answer all material questions relating to the application, and who may be examined in the same manner as the party represented by him might have been examined had such party attended in person.

406. (*1*) **If** an application **for permission** to **institute or continue a suit as a pauper is** in proper form and duly presented, the **Court** may, if it thinks fit, examine the **applicant** or, where he is allowed to appear by agent, his agent, regarding the merits of the claim and the property of the applicant.

Examination of applicant.

(*2*) Where **such** application is presented by an agent, the Court may, if it thinks fit, **issue** a commission **for the examination of the applicant** in the manner in which the examination of an absent witness may be taken under the provisions of this Code.

407. The Court shall reject **an** application **for permission to institute or continue a suit as a pauper,—**

Rejection of application.

[405.] **(*a*) if it is not presented in the manner prescribed by section 403; or**

(*b*) if, after perusal of the application and such examination (if any) as may be made under section 406, it appears to the Court—

(i) that the applicant is not **entitled to apply under section** 402, or

(ii) that he has, within two months next before the presentation of ( ) application, disposed of any property fraudulently or with a view to obtain the benefit of this Chapter; or

(iii) that his allegations, **if unrebutted, would not be sufficient to establish** a right **to institute or continue a suit in such** Court ***or that his claim is obviously frivolous or vexatious;*** or

(iv) that he has entered into any agreement with reference to the subject-matter of the suit under which any other person has obtained **a vested or contingent** interest in such subject-matter.

408. **Where** the Court sees no reason to reject an application for permission to institute or continue a suit as a pauper, it shall fix a day ***and hour,*** of which at least ***one month's*** previous notice shall be given to the opposite party and the Government pleader, for receiving **and hearing** such evidence as may **be adduced in support of or in opposition to the application.**

Notice of day for receiving and hearing evidence for and against application.

409. (*1*) On the day ***and at or after the hour*** fixed under section 408, the Court shall examine the witnesses (if any) produced by either party, and may ***also*** examine the applicant or his agent.

Procedure at hearing.

(2) Where the Court examines any witness produced by either party, or the applicant or his agent, under the provisions of sub-section (1), the opposite party or his pleader and the Government pleader, if he appears, shall be entitled to cross-examine such witness, applicant or agent; and the Court shall make a memorandum of the substance of the evidence given.

(*3*) The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the C urt as herein provided, the applicant is or is not subject to any of the prohibitions specified in section 407.

(*4*) The Court shall then either **permit** or refuse **to permit** the applicant to **institute** or **continue the suit** as a **pauper.**

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases.—Chapter XXVII.—Suits by Paupers.—Sections 410, 411, 414, 412, 412A., 413.)

(*5*) Where an application has been made for permission to institute a suit as a pauper, the applicant may, at any time before an order is made under this section, convert his application into a plaint, by paying into Court the necessary court-fees, and, unless the Court, for reasons to be recorded, considers the application to have been made in bad faith, such plaint shall for the purposes of the law of limitation for the time being in force, be deemed to have been presented on the day on which the application was made and not on the day on which the court-fees were paid.

Procedure where application granted.

410. (*1*) Where an application for permission to institute or continue a suit as a pauper has been granted under section 409, the applicant shall not be liable to any court-fees (other than fees payable for service of process) in respect of any petition, appointment of a pleader or other proceeding connected with the suit.

(*2*) Where the application *is* for permission to institute a suit as a pauper, it shall be numbered and registered, and shall be deemed to be the plaint in the suit, and, save as otherwise provided in sub-section (*1*), the suit shall proceed as a suit instituted under Chapter *VI.*

Procedure where pauper plaintiff succeeds.

411. Where a ***party*** suing as a pauper succeeds ***wholly or partially*** in ***establishing his claim,*** the Court shall calculate the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to institute or continue the suit as a pauper; and such amount shall be a first charge on the subject-matter of the suit, and shall also be recoverable by the Government from any party ordered by the decree to pay the same, in the same manner as the costs of a suit are recoverable under this Code.

Dispaupering.

414. Where an application of any person, for permission to institute or continue a suit as a pauper has been granted under section 409, the Court may, on the application of any party to the suit or of the Government pleader, of which one week's notice has been given to such person, order such person to be dispaupered,—

(*a*) if he is guilty of vexatious or improper conduct in the course of the suit;

(*b*) if it appears that his means are such that he ought not to be permitted to continue the suit as a pauper; or

(*c*) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained ***a vested or contingent*** interest in such subject-matter.

Procedure where pauper fails or compromises.

412. (*1*) Where a person instituting or continuing a suit as a pauper fails in his suit or where he is dispaupered, or where his suit is dismissed under section 97 or section 98 or is withdrawn or dismissed in consequence of any agreement, the Court shall order him, or any person made, under section 32, co-plaintiff with him, to pay the court-fees which would have been paid by him if he had not been permitted to institute or continue the suit as a pauper.

(*2*) Nothing in this section shall be deemed to limit or otherwise affect the power conferred upon the Court by section 220 to give and apportion costs.

(*3*) For the purpose of rectifying any error in an order made under this section or the omission to make such an order, the Government, even though it is not a party to the suit, shall have all the rights and remedies which would be open to a party bound by the decree.

Realization of court-fees and other moneys ordered to be paid to the Government.

412A. (*1*) The Government shall be deemed to have a lien upon the decree for the amount of any court-fees ordered to be paid under section 411 or 412, and, where the Court is satisfied that the decree-holder is unable or unwilling to realize his claim either in whole or in part, the Court may, on such terms as it thinks reasonable, permit the Government to execute the decree for the purpose of recovering any such amount. [411 (2).]

(*2*) Where a decree orders any money to be paid to the Government under section 411 or 412, the Court shall immediately cause a copy of the decree to be furnished to the Collector; and all matters arising between the Government and the party ordered by the decree to pay any such money or his representative shall be deemed to be questions arising between the parties within the meaning of section 244, sub-section (*1*), clause (*b*), although the Government may not have been a party to the suit. [411 (3).]

Effect of order dismissing or rejecting application stitute or continue suit as pauper.

413. ***(1) Where an application to institute or continue a suit as a pauper is dismissed for default, the applicant may, subject to the provisions of sub-section (4), present a subsequent application of the like nature in respect of the sme right.*** [413, 415.]

(2) Where any such application as aforesaid is rejected or dismissed otherwise than for default, the applicant shall be precluded from present-

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases.—Chapter XXVII.- Suits by Paupers.—Section 413A. Chapter XXVIII.—Suits by or against the Government or Public Officers.—Sections 416-423.)

ing a subsequent application of the nature referred to in sub-section (1).

(3) Where any such application as aforesaid is rejected or dismissed, whether for default or for any other reason, the applicant may, subject to the provisions of sub-section (4), institute or continue the suit in the ordinary manner.

(4) No subsequent application under sub-section (1) shall be granted, nor shall the applicant be permitted under sub-section (3) to institute or continue the suit, unless, within the period (if any) allowed by the law for the time being in force relating to limitation in respect of the institution or continuance of the suit, he first pays the costs (if any) incurred by the Government in opposing his application.

(5) Where the suit, in respect of which an application under this Chapter is made, is instituted, the costs of such application and of the enquiry thereon shall be deemed to be costs in such suit; but, where such suit is not instituted, any order of the Court awarding costs to the Government or to any party may be executed as if it were a decree for the payment of money.

Application of Chapter to set-off and counter-claims.

413A. ***The provisions of this Chapter relating to applications for permission to institute a suit as a pauper shall, so far as they are applicable, be deemed to apply to applications for permission to plead a set-off or counter-claim as a pauper; and section 403, sub-section (2), shall be read as though for the figures "50" the words and figures "section 110 or section 111," as the case may be, were substituted.***

CHAPTER XXVIII.

SUITS BY OR AGAINST THE GOVERNMENT OR PUBLIC OFFICERS.

Suits by or against Secretary of State in Council.

416. (*1*) Suits by or against the Government shall be instituted by or against (as the case may be) the Secretary of State for India in Council.

(2) In any suit by or against the Secretary of State in Council, the plaint or written statement, as the case may be, shall be signed by such person as the Government may, by general or special order, appoint in this behalf, and shall be verified by any person whom the Government may so appoint and who is acquainted with the facts of the case.

(3) Nothing in this section shall be deemed to limit or otherwise affect any information exhibited by the Advocate General in exercise of the power declared by section 111 of the East India Company Act, 1813. 53 Geo. 3 c. 155.

Persons authorized to act for Government.

417. Persons being *ex officio* or otherwise authorized to act for **the** Government in respect of any judicial proceeding shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of **the** Government.

Plaints in suits by ***or against*** Secretary of State in Council.

418. In suits by ***or against*** the Secretary of State for India in Council, instead of inserting in the plaint the name and description and place of ***residence*** of the plaintiff ***or defendant,*** it shall be sufficient to insert the words "The Secretary of State for India in Council".

Agent for Government to receive process.

419. The Government pleader in any Court, or such other person as the Local Government may for any Court appoint in this behalf, shall be the agent of the Government for the purpose of receiving processes against the Secretary of State **for India** in Council issued by such Court. [Amended by VII of 1888, s. 35.]

Fixing of day for appearance on behalf of Secretary of State in Council.

420. The Court, in fixing the day for the Secretary **of** State **for India** in Council to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channel, and for the issue of instructions to the Government pleader to appear and answer on behalf of the said Secretary of State in Council or the Government, and may extend the time at its discretion.

Attendance of person able to answer questions relating to suit against Government.

421. The Court may also, in any case in which the Government pleader is not accompanied by any person on the part of the Secretary of State **for India** in Council, who may be able to answer any material questions relating to the suit, direct the attendance of such a person.

Extension of time to enable defendant public officer to make reference to Government.

423. (***1***) **Where the defendant in a suit is a public officer and,** on receiving the summons, considers it proper to make a reference to the Government before answering to the plaint, he may

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases.—Chapter XXVIII.—Suits by or against the Government or Public Officers.—Sections 424, 424A, 426, 428, 429, 547.)

apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel.

(2) Upon such application the Court shall extend the time for so long as appears ***to it*** to be necessary.

[Amended by VII of 1888, s. 36.] 424. No suit of any kind shall be instituted against the Secretary of State for India in Council, or against a public officer in respect of an act purporting to be done by such public officer, whether ***in the matter of a*** contract or otherwise, in his official capacity, nor shall the said Secretary of State in Council or public officer be made a defendant under the provisions of section 32 to any suit of the description hereinbefore referred to, until the expiration of two months next after notice in writing has been, in the case of the said Secretary of State in Council, delivered to, or left at the office of, a Secretary to the Local Government or the Collector of the district, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action and the name and place of abode of the plaintiff and the relief which he claims; and, ***where a suit of the nature referred to in this section is instituted,*** the plaint shall contain a statement that such notice has been so delivered or left:

Notice previous to suing Secretary of State in Council or public officer.

Provided that, where a person having given notice under this section dies before instituting the suit, his legal representative may institute the suit without giving further notice.

Explanation.—A Collector is entitled to notice under this section ***whenever*** a suit ***is instituted against him or he is joined as a defendant*** in the capacity of an agent of the Court of Wards ***notwithstanding that he is so sued or joined as a defendant*** not by reason of an act purporting to be done by him in his official capacity, but merely for the protection of a minor's title.

424A. ***Where a suit is instituted by or against the Secretary of State for India in Council or against a public officer in respect of an act purporting to have been done by him in his official capacity, the Court shall, in lieu of the periods specified in sections 126, 125A and 128, fix such time as it considers a reasonable period within which the Secretary of State for India in Council or the public officer shall answer an interrogatory or may apply to the Court to set aside an interrogatory or may require the other party to admit the genuineness of any document material to the suit; and nothing in section 126 or section 129 shall be deemed to require the Secretary of State for India in Council or any public officer, in any such suit, to answer interrogatories, or to declare documents, by affidavit.***

Modification of certain sections in cases under this Chapter.

426. (1) Where the Government undertakes the defence of a suit against a public officer, the Government pleader, upon being furnished with authority to appear and answer to the plaint, shall apply to the Court, and upon such application the Court shall cause a note of his authority to be entered in the register of civil suits.

Procedure in suits against public officer.

(2) Where no application under ***sub***-section (1) is made by the Government pleader on or before the day fixed in the notice for the defendant to appear and answer, the case shall proceed as in a suit between private parties:

Provided that the defendant shall not be liable to arrest, nor his property to attachment, otherwise than in execution of a decree.

428. In a suit ***instituted*** against a public officer in respect of an act purporting to be done by him in his official capacity— [425, 428.]

Exemption of public officer from ***arrest and*** personal appearance.

(a) ***notwithstanding anything contained in section 426, sub-section (2), proviso, or any other provision of this Code,*** no warrant of arrest shall be issued against ***the defendant,*** and

(b) where the Court ***is satisfied*** that ***the defendant*** cannot absent himself from his duty without detriment to the public service,

it shall exempt ***him*** from appearing in person.

429. Where the decree is against the Secretary of State for India in Council or against a public officer in respect of an act purporting to be done by him in his official capacity, a time shall be specified in the decree within which it shall be satisfied; and, if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the Local Government.

Procedure where decree against Government or public officer.

(2) Execution shall not be issued on any such decree unless it remains unsatisfied for the period of three months computed from the date of such report.

547. No such security as is mentioned in sections 545 and 546 shall be required from the Secretary of State for India in Council, or, where the Government has undertaken the defence of the suit, from any public officer sued in respect of an act alleged to have been done by him in his official capacity.

No security to be required from the Government or a public officer under section 545 or 546.

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases.—Chapter XXIX.—Suits by Aliens and by or against Foreign and Native Rulers.—Sections 430-434.)

CHAPTER XXIX.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

[..., in part.] Suits by alien friends.

430. An alien friend may sue in any Court of British India as if he were a subject of His Majesty.

[..., remain-...] Suits by alien enemies.

430A. (*1*) Save as hereinafter otherwise provided, no alien enemy may sue in any Court of British India.

(*2*) An alien enemy residing in the United Kingdom or in any British possession with the license of His Majesty or of the Government, may sue in any Court of British India as if he were a subject of His Majesty.

Explanation I.—For the purposes of this section, a person—

(*a*) residing in a foreign country, the Government of which is at war with His Majesty, and

(*b*) carrying on business in that country without a license in that behalf under the hand of one of His Majesty's Secretaries of State or of a Secretary to the Government of India,

shall be deemed to be an alien enemy.

Explanation II.—For the purposes of sub-section (2), a prisoner of war or other prisoner, ***detained in the United Kingdom or in any British possession, shall not be deemed to reside therein.***

Suits by foreign States.

431. (*1*) A foreign State may sue in any Court of British India:

Provided that it has been recognized by His Majesty or by the Governor General in Council;

Provided, also, that the object of the suit is to enforce a private right vested in the head of such foreign State or in any officer of such State in his public capacity.

(*2*) Every Court shall take judicial notice of the fact that a foreign State has or has not been recognized by His Majesty or by the Governor General in Council.

[...ended by ... of 1888, ...7.] Persons specially appointed by Government to prosecute or defend for princes or chiefs.

432. (*1*) Persons specially appointed by order of the Government at the request of any sovereign prince or ruling chief, whether in subordinate alliance with the British Government or otherwise, and whether residing within or residing without British India, or at the request of any person competent, in the opinion of the Government, to act on behalf of such prince or chief, to prosecute or defend any suit on his behalf, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such prince or chief.

(*2*) An appointment under this section may be made for the purpose of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the prince or chief.

(*3*) A person appointed under this section may authorize or appoint persons to make appearances and applications and do acts in any such suit or suits as if he were himself a party thereto.

(*4*) Nothing in this section shall be deemed to prohibit the institution of a suit by any such prince or chief in his own name or through a recognized agent appointed under section 37.

Suits against princes, chiefs, ambassadors and envoys. [Substituted by VII of 1888, s. 38.]

433. (*1*) Any such prince or chief, and any ambassador or envoy of a foreign State, may, with the consent of the Governor General in Council, certified by the signature of a Secretary to the Government of India, but not without such consent, be sued in any competent Court.

(*2*) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the prince, chief, ambassador or envoy may be sued; but it shall not be given unless the prince, chief, ambassador or envoy—

(*a*) has instituted a suit in the Court against the person desiring to sue him, or

(*b*) by himself or another trades within the local limits of the jurisdiction of the Court, or

(*c*) is in possession of immoveable property situate within those limits and is to be sued with reference to such possession or for money charged on that property.

(*3*) No such prince, chief, ambassador or envoy shall be arrested under this Code, and, except with the consent of the Governor General in Council certified as aforesaid, no decree shall be executed against the property of any such prince, chief, ambassador or envoy.

(*4*) The Governor General in Council may, by notification in the Gazette of India, authorize a Local Government and *a* Secretary to that Government to exercise, with respect to any prince, chief, ambassador or envoy named in the notification and subject to the control of the Governor General in Council, the functions assigned by the foregoing sub-sections to the Governor General in Council and a Secretary to the Government of India, respectively.

(*5*) Any consent given under this section may at any time, by order certified as aforesaid, be withdrawn.

(*6*) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a prince, chief, ambassador or envoy from whom he holds or claims to hold the property.

Style of Princes and Chiefs as parties to suits. [Added by VII of 1888, s. 40.]

434. A sovereign prince or ruling chief may sue, and shall be sued, in the name of his State:

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases.—Chapter XXX.—Suits by or against Corporations and Companies.—Sections 435-436A. Chapter XXXI.—Suits by or against Trustees, Executors and Administrators.—Section 437—439. Chapter XXXII.—Suits by or against Minors and Persons of unsound mind.—Section 440.)

Provided that in giving the consent referred to in section 433 the Governor General in Council or the Local Government, as the case may be, may direct that any such prince or chief shall be sued in the name of an agent or in any other name.

CHAPTER XXX.

SUITS BY OR AGAINST CORPORATIONS AND COMPANIES.

Subscription and verification of plaint in suit by corporation or company.

435. Where a suit is instituted by a corporation, or by a company authorized to sue and be sued in the name of an officer or of a trustee, the plaint may be ***signed*** and verified on behalf of the corporation or company by any director, secretary or other officer of the corporation or company, who is able to depose to the facts of the case.

[436, part.]

Service on corporation or company.

436. Where the defendant in a suit is a corporation, or is a company authorized to sue and be sued in the name of an officer or of a trustee, the summons may be served—

(*a*) by leaving it at the registered office (if any) of the corporation or company, or

(*b*) by sending it by post in a letter, addressed to such officer or trustee at the office (or, if there are more offices than one, at the principal office in British India) of the corporation or company, or

(*c*) by giving it to any director, secretary or other officer of the corporation or company.

[436, remainder.]

Power to require personal attendance of officer of corporation or company.

436A. *(1)* In the case of a suit instituted by or against a corporation or by or against a company authorized to sue and be sued in the name of an officer or of a trustee, the Court may***, at any stage of the suit,*** require the personal appearance of any director, secretary or other officer of the corporation or company who may be able to answer material questions relating to the suit.

(2) Where any person ordered to appear under sub-section (1) does not appear or show sufficient cause to the satisfaction of the Court for failing so to appear, the corporation or the company shall be subject to the provisions of Chapter VIII applicable to the plaintiffs and defendants, respectively, who do not appear.

CHAPTER XXXI.

SUITS BY OR AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

Representation of beneficiaries in suit concerning property vested in trustees, etc.

437. Where, in a suit concerning property vested in a trustee, executor or administrator, the contention is between the persons beneficially interested in such property and a third person, the trustee, executor or administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit; but the Court may, if it thinks fit, order them or any of them to be made parties.

Joinder of all ***trustees,*** executors and administrators.

438. Where there are two or more ***trustees,*** executors or administrators, they shall all be made parties to a suit against one or more of them:

Provided that executors who have not proved their testator's will, and ***trustees,*** executors and administrators beyond the local limits of the jurisdiction of the Court, need not be made parties.

Husband of married ***trustee,*** administratrix or executrix not to join.

439. Unless the Court otherwise directs, the husband of a married ***trustee,*** administratrix or executrix shall not as such be a party to a suit by or against her.

CHAPTER XXXII.

SUITS BY OR AGAINST MINORS AND PERSONS OF UNSOUND MIND.

[Amended by VIII of 1890, s. 53A.]

Minor to sue by next friend.

440. *(1)* Every suit by a minor shall be instituted in his name by an adult person, who shall be called the next friend of the minor.

(2) Where a suit is instituted by or behalf of a minor without a next friend, the defendant may apply to have the plaint removed from the list of pending cases with costs to be paid by the pleader or other person by whom it was presented: [442.

Provided that notice of such application shall be given to such person by the defendant, and that the Court shall hear his objections (if any) before making an order on the application.

(3) Where a plaint has been removed from the list of pending cases, the plaintiff may, subject to the law of limitation for the time being in force, institute a fresh suit in respect of the same subject-matter.

(4) Where the defendant applies for the removal of the plaint under sub-section (2), the Court may grant such time as it considers reasonable to enable the minor plaintiff to be represented by a next friend and, when the minor plaintiff is so represented, shall proceed with the suit.

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases.—Chapter XXXII.—Suits by or against Minors and Persons of unsound mind.—Sections 443, 445, 441.)

ended VIII of ... B.]

443. *(1)* Where the defendant to a suit is a minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor.

Guardian for the suit to be appointed by Court for minor defendant.

456.] *(2)* An order for the appointment of a guardian for the suit may be obtained upon application in the name and on behalf of the minor or by the plaintiff.

(3) Every application under this section shall be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the suit adverse to that of the minor, and that he is fit to be so appointed.

443.] *(4)* Before appointing any person to be a guardian for the suit under this section, the Court shall cause a notice to be served upon ***him and upon*** the minor defendant ***and upon the guardian (if any) appointed or declared by competent authority for the person or property or both of the minor defendant or, where no such guardian has been appointed or declared, upon the father or other natural guardian of the minor defendant or, where there is no father or other natural guardian of the minor defendant, upon the person in whose care he is,*** in the manner prescribed by this Code for the service of a summons, and shall hear any objections which may be urged on behalf ***of any person served with notice under this sub-section.***

(5) Service of such notice on the father or guardian of the minor defendant, or, where there is no such father or guardian, then upon the person in whose care he is, shall, unless the Court otherwise directs, be deemed to be good service on the minor defendant:

Provided that the Court may order that service made or to be made on the minor defendant himself shall be deemed good service.

(6) No decree or order shall be set aside for failure to comply with the provisions of this section, unless it is shown to the satisfaction of the Court that, by reason of such failure, the minor defendant has suffered substantial injury.

445. *(1)* Any person ***who is*** of sound mind and ***has attained majority*** may act as next friend of a minor ***or as his guardian for the suit:***

Who may act as next friend or be appointed guardian for the suit.

Provided that the interest of such person is not adverse to that of the minor and that he is not, ***in the case of a next friend,*** a defendant ***or, in the case of a guardian for the suit, a plaintiff*** in the suit.

(2) ***Where a minor has guardians or a guardian appointed or declared by competent authority,—***

(a) no person, other than such a guardian, shall act as the next friend of such minor or be appointed to be his guardian for the suit, and [10 and (2).] (2) 443

(b) a guardian of his property shall act as next friend or be appointed to be guardian for the suit in preference to a guardian of his person,

unless the Court, after giving notice to the guardians or guardian or to the guardian of the property, considers, for reasons to be recorded, that it is for the minor's welfare that another person or the guardian of the person be permitted to act or be appointed, as the case may be.

(3) No person shall without his consent be made to act as next friend of a minor nor, save in the case of a guardian of the classes referred to in sub-section (2) and in sub-section (4), be appointed a guardian for the suit. [cf. (2).] 32

(4) Where there is no other person fit and willing to act as guardian for the suit, the Court may appoint any of its officers to be such guardian:

Provided that such officer has no interest adverse to that of the minor. [456 (3).]

441. *(1)* Every application to the Court on behalf of a minor, other than an application under sub-section (6) of section 446, shall be made by his next friend or his guardian for the suit ***who, subject to the provisions of sections 461 and 462, shall be entitled and bound to act generally on the minor's behalf in the conduct of the case.*** [cf. (1).]

Representation of minor by next friend or guardian for the suit.

(2) A next friend or guardian for the suit may be ordered to pay any costs in the suit as if he were a plaintiff or a defendant; and such payment shall be made out of the minor's property or, if the Court so directs, by the next friend or guardian for the suit personally: [cf. (1).] 440

Provided that, where the Court appoints any of its officers under section 445, sub-section (4), to be guardian for the suit, it may direct that the costs incurred or to be incurred by such officer in the performance of his duties as such guardian shall be borne [cf. XLV, 13.] O. r.

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases.—Chapter XXXII.—Suits by or against Minors and Persons of unsound mind.—Sections 461, 462, 446.)

either by the parties, or by any one or more of the parties, to the suit, or out of any fund in Court in which the minor is interested, and may give directions for the repayment or allowance of such costs as justice and the circumstances of the case may require.

[444.] *(3)* Every order made in a suit or on any application before the Court, in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the suit, as the case may be, may be discharged, and, where the pleader of the party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, with costs to be paid by such pleader.

[Amended by VIII of 1890, s. 53D.]

Receipt by next friend or guardian for the suit of property under decree for minor.

461. (*1*) A next friend or guardian for the suit shall not, except by leave of the Court, receive any money or other moveable property on behalf of a minor either—

(*a*) by way of compromise before decree or order, or

(*b*) under a decree or order in favour of the minor.

(2) Where the next friend or guardian for the suit—

(a) has not been appointed or declared by competent authority to be guardian of the property of the minor, or,

(b) having been so appointed or declared, is under any disability known to the Court to receive the money or other moveable property,

the Court shall, if it grants him leave to receive the property, require such security and give such directions as will, in its opinion, sufficiently protect the property from waste and ensure its proper application.

Agreement or compromise by next friend or guardian for the suit.

462. ***(1)*** No next friend or guardian for the suit shall, except by leave of the Court expressly recorded on his application, enter into any agreement or compromise on behalf of a minor, with reference to the suit in which he acts as next friend or guardian.

(2) Any such agreement or compromise entered into without such leave so recorded shall be voidable against all parties other than the minor.

(3) Where the Court sees reason to grant leave to a next friend or guardian for the suit to enter into any agreement or compromise on behalf of a minor, it shall record a proceeding or order showing that an application has been made to it, that the terms of the proposed agreement or compromise have been considered by it, and that, having regard to the interests of the minor, it has granted leave to make the agreement or compromise.

(4) A subsisting decree purporting to have been passed in pursuance of an agreement or compromise shall not be called in question, ***on the ground that the requirements of this section have not been complied with,*** by way of objection to any proceeding taken in execution of it; nor shall it be set aside or varied either in appeal or in a regular suit instituted, or upon an application for review made, by the minor through his next friend or by the minor himself on attaining his majority merely because no such proceeding or order ***as is referred to*** in sub-section ***(3)*** was recorded ***or made*** or because the leave of the Court was not expressly but impliedly granted, if in fact it appears that the next friend or guardian for the suit assented on behalf of the minor, and that the agreement or compromise was accepted by the Court and resulted in a decree not prejudicial to the interests of the minor.

Explanation.—For the purposes of this section, an agreement with reference to the suit shall be deemed to include an agreement to be bound by an oath of the nature referred to in section 9 of the Indian Oaths Act, 1873, or to refer any matter in controversy in such suit to arbitration. X of 1873.

Retirement, removal or death of next friend.

446. ***(1)*** Unless the Court otherwise directs, a next friend shall not retire without first procuring a fit person to be put in his place and giving security for the costs already incurred. [447.]

(2) The application for the appointment of a new next friend shall be supported by affidavit showing the fitness of the person proposed, and also that he has no interest adverse to that of the minor.

(3) Where—

(a) the interest of the next friend of a minor is adverse to that of such minor, or [Amended by VIII, 1890, s. 53(C).]

(b) where he is so connected with a defendant whose interest is adverse to that of the minor as to make it unlikely that the minor's interests will be properly protected by him, or

(c) where he does not do his duty, or ceases during the pendency of the suit to reside within British India, or

(d) for any other sufficient cause,

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases.—Chapter XXXII.- Suits by or against Minors and Persons of unsound mind.—Sections 458, 450, 454-455A.)

application may be made on behalf of the minor or by a defendant for his removal; and the Court, if satisfied of the sufficiency of the cause assigned, may order the next friend to be removed accordingly.

(4) Where the next friend is not a guardian appointed or declared by an authority competent in this behalf, and an application is made by a guardian so appointed or declared, who desires to be himself appointed in the place of the next friend, the Court shall remove the next friend, unless it considers, for reasons to be recorded, that the guardian ought not to be appointed the next friend of the minor.

(5) On the retirement, removal or death of the next friend of a minor, further proceedings shall be stayed until the appointment of a next friend in his place.

[449.] *(6)* Where the pleader of such minor omits, within a reasonable time, to take steps to get a new next friend appointed, ***the Court may, on the application of*** any person interested in the minor or in the matter ***in controversy or on its own motion,*** appoint such person as it thinks fit ***to be the next friend of the minor.***

Retirement, removal or death of guardian for the suit.

458. *(1)* Where the guardian for the suit of a minor defendant ***desires to retire or*** does not do his duty, or where other sufficient ground is made to appear, the Court may ***permit*** such guardian ***to retire or may remove him,*** and may order him to pay such costs as may have been occasioned to any party by his breach of duty.

[451.] *(2)* Where the guardian for the suit ***retires,*** dies or is removed by the Court during the pendency of the suit, the Court shall appoint a new guardian in his place.

Course to be followed by minor plaintiff or applicant on attaining majority.

450. *(1)* A minor plaintiff, or a minor not a party to a suit on whose behalf an application is pending, shall, on attaining majority, elect whether he will proceed with the suit or application.

(2) Where such minor elects to proceed with the suit or application, he shall apply for an order discharging the next friend and permitting him to proceed in his own name, and the title of the suit or application shall in such case be corrected so as to read thenceforth thus:—

"*A. B.*, late a minor, by *C. D.*, his next friend, but now having attained majority."

[452.] *(3)* Where such minor elects to abandon the suit or application, he shall, if a sole plaintiff or applicant, apply for an order to dismiss the suit or application on repayment of the costs which may have been incurred by the defendant or respondent, or which may have been paid by his next friend.

(4) Any application under this section may be made *ex parte*; ***but no order discharging a next friend and permitting a minor plaintiff to proceed in his own name shall be made without notice to the next friend.*** [453.]

Where minor co-plaintiff attaining majority desires to repudiate suit.

454. *(1)* Where a minor co-plaintiff, on attaining majority, desires to repudiate the suit, he shall apply to have his name struck out as co-plaintiff; and the Court, if it finds that he is not a necessary party, shall dismiss him from the suit on such terms as to costs or otherwise as it thinks fit.

(2) Notice of an application under this section shall be served on the next friend, ***on any co-plaintiff of the applicant and*** on the defendant.

(3) The costs of such application, and of all or any proceedings theretofore had in the suit, shall be borne by such persons as the Court directs.

(4) Where the late minor is a necessary party to the suit, the Court may direct him to be made a defendant.

Unreasonable or improper suit.

455. ***(1) A minor, on attaining majority, may apply, if a sole plaintiff, that a suit instituted in his name by a next friend be dismissed on the ground that it was unreasonable or improper.***

(2) Notice of an application under this section shall be served on all the parties concerned; and the Court, on being satisfied of such unreasonableness or impropriety, may grant the application and order the next friend to pay the costs of all parties in respect of the application and of anything done in the suit ***or make such other order as it thinks fit.***

Application of Chapter to certain proceedings and to persons of unsound mind.

455A. ***The provisions of this Chapter shall, so far as they are applicable, be deemed,—***

(a) where they refer to suits, to extend also to proceedings other than suits;

(b) where they refer to plaintiffs, to extend also to defendants who have pleaded a set-off or counter-claim; and

(c) where they refer to minors, to extend also to persons of unsound [463.]

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases.—Chapter XXXII.—Suits by or against Minors and Persons of unsound mind.—Sections 464, 464A. Chapter XXXIII.—Suits by or against Military Men.—Section 465. Chapter XXXIV.—Suits by or agains Firms and Persons carrying on business in names other than their own.—Section 469A.)

XXXV of 1858.

mind, adjudged to be so under the Lunacy (District Courts) Act, 1858, or under any other law for the time being in force and of persons who, though not so adjudged, are found by the Court on inquiry to be unable, by reason of unsoundness of mind, to protect their interests when suing or being sued.

[Substituted by VIII of 1890, s. 35 (E).]

Saving for princes and chiefs and for local laws.

464. Nothing in this Chapter shall be deemed to apply to a sovereign prince or ruling chief suing or being sued in the name of his State or being sued, by direction of the Governor General in Council or of a Local Government, in the name of an agent or in any other name.

Execution of certain orders.

464A. ***Where and in so far as any order made under this Chapter directs the payment of money by any person other than a party to the suit, such order may be executed in the same manner as if it were a decree for the payment of money.***

CHAPTER XXXIII.

SUITS BY OR AGAINST MILITARY MEN.

Power for officer or soldier who cannot obtain leave to authorize any person to sue or defend for him.

465. (*1*) Where any officer or soldier actually serving the Government in a military capacity is a party to a suit and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead.

(*2*) Such authority shall be in writing and shall be signed by the officer or soldier in the presence of—

(*a*) his commanding officer or, if he is himself the commanding officer, the next subordinate officer, or,

(*b*) where the officer or soldier is serving in military staff employment, the head or other superior officer of the office in which he is employed.

(*3*) Such commanding or other officer shall countersign the authority, which shall be filed in Court; and, when it has been so filed, the countersignature shall be sufficient proof that the authority was duly executed and that the officer or soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

(*4*) Any person authorized by an officer or a soldier under this section to prosecute or defend a suit in his stead may prosecute or defend it in person in the same manner as the officer or soldier could do if present, or may appoint a pleader to prosecute or defend the suit on behalf of such officer or soldier. [466.]

(*5*) Processes served upon any person authorized by an officer or a soldier under this section or upon any pleader appointed as aforesaid by such person to act for, or on behalf of, such officer or soldier, shall be as effectual as if they had been served on the party in person or on his pleader. 467.]

Explanation.—For the purposes of this Chapter, the expression "commanding officer" means the officer in actual command for the time being of any regiment, corps, detachment or depôt to which an officer or soldier belongs.

CHAPTER XXXIV. [New.]

SUITS BY OR AGAINST FIRMS AND PERSONS CARRYING ON BUSINESS IN NAMES OTHER THAN THEIR OWN.

Suing of partners in name of firm.

469A. Any two or more persons claiming or being liable as partners and carrying on business within the local limits of the jurisdiction of the Court, may sue or be sued in the name of the firm (if any) of which such persons were partners at the time of the accruing of the cause of action, and any party to a suit may in such case apply to the Court for a statement of the names and addresses of the persons who were, at the time of the accruing of the cause of action, partners in such firm, to be furnished and verified in such manner as the Court may direct. [*Cf.* O. XLVIIIA, r. 6.]

(*2*) ***Where persons sue or are sued as partners in the name of their firm under sub-section (1), it shall, in the case of any plaint, written statement or other document required by or under this Code to be signed, verified or certified by the plaintiff or the defendant or his pleader, suffice if such plaint, written statement or other document is signed, verified or certified by any one of such persons or by his pleader, as the case may be.***

(*3*) Where a summons is issued upon the presentation of a plaint by partners in the name of their firm, the plaintiffs or their recognized agents shall, on demand in writing [*Ibid*, r. 2.]

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases.—Chapter XXXIV.—Suits by or against Firms and Persons carrying on business in names other than their own.—Section 469AA, 469B-469D.)

by or on behalf of any defendant, forthwith declare in writing the names and places of residence of all the persons constituting the firm on whose behalf the suit is brought.

(*4*) Where the plaintiffs or their recognized agents fail to comply with any demand made under sub-section (*2*), all proceedings in the suit may, upon an application for that purpose, be stayed upon such terms as the Court may direct.

(*5*) Where the names of the partners are declared in the manner referred to in sub-section (*2*), the suit shall proceed in the same manner, and the same consequences in all respects shall follow, as if they had been named as plaintiffs in the plaint:

Provided that all the proceedings shall, nevertheless, continue in the name of the firm.

[Ibid, 3.] (*6*) Where persons are sued as partners in the name of their firm under this section, the summons shall be served either—

(*a*) upon any one or more of the partners, or

(*b*) at the principal place at which the partnership business is carried on within the local limits of the jurisdiction of the Court, upon any person having, at the time of service, the control or management of the partnership business there,

as the Court may direct; and such service shall be deemed to be service upon the firm so sued, whether all or any of the partners are out of jurisdiction or not; and it shall not be necessary to issue a summons ***to*** any partner:

Provided that, in the case of a partnership which has been dissolved to the knowledge of the plaintiff before the presentation of the plaint, summons shall be served upon every person within the local limits of the jurisdiction of the Court whom it is sought to make liable.

469AA. (*1*) ***Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872, where—***

Right of suit on death of partner. [IX of 1872.]

(*a*) ***two or more persons may sue or be sued in the name of a firm under the provisions of section 469A, and***

(*b*) ***any one of such persons dies, whether before the institution, or during the pendency, of any suit,***

the survivor or the survivors may sue or continue to sue or be sued without joinder of the legal representative of the deceased as a party.

(*2*) ***Nothing in sub-section (1) shall limit or otherwise affect any right which the legal representative of the deceased may have—***

(*a*) ***to apply to be made a party to the suit, or***

(*b*) ***to enforce any claim against the survivor or survivors.***

469B. Where a summons is issued ***to*** a firm and is served in the manner provided by section 469A, sub-section (*5*), every person upon whom it is served shall be informed by notice in writing given at the time of such service, whether he is served as a partner or as a person having the control or management of the partnership business, or in both characters, and, in default of such notice, the person served shall be deemed to be served as a partner. [Ibid, r. 4.]

Notice in what capacity served.

469C. (*1*) Where persons are sued as partners in the name of their firm, they shall appear individually in their own names, but all subsequent proceedings shall, nevertheless, continue in the name of the firm. [Ibid, r. 5.]

Appearance of partners.

(*2*) Where a summons is served in the manner provided by section 469A, sub-section (*5*), upon a person having the control or management of the partnership business, no appearance by him shall be necessary unless he is a ***partner*** of the firm sued. [Ibid, r. 6.]

(*3*) Any person served ***with process*** as a partner under section 469A, sub-section (*5*), may appear under protest, denying that he is a partner, but such appearance shall not preclude the plaintiff from otherwise serving ***process*** on the firm and obtaining ***a decree*** against the firm in default of appearance where no partner has ***appeared.*** [Ibid, r. 7.]

469D. (*1*) Where a decree has been passed against a firm, execution may be granted— [Ibid, r. 8.]

Execution of decree against firm.

(*a*) against any property of the partnership within the local limits of the jurisdiction of the Court ***executing the decree;***

(*b*) against any person who has appeared in his own name under section 469C, sub-section (*1*) or sub-section (*2*), or who has admitted on the pleadings that he is, or who has been adjudged to be, a partner;

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases. -Chapter XXXIV. -Suits by or against Firms and Persons carrying on business in names other than their own.—Section 469E, 469F. Chapter XXXV.—Interpleader.—Sections 470-472.)

(*c*) against any person who has been individually served, as a partner, with the summons and has failed to appear:

Provided that nothing in this sub-section shall be deemed to limit or otherwise affect the provisions of the Indian Contract Act, 1872, section 247. IX of 1872.

(*2*) Where the decree-holder claims to be entitled to cause the decree to be executed against any person ***other than such a person as is referred to in sub-section (1), clauses (b) and (c),*** as being a partner in the firm, he may apply to the Court ***which passed the decree*** for leave, and, where the liability is not disputed, ***such*** Court may grant such leave or, where such liability is disputed, may order that the liability of such person be tried and determined, in the same manner, and with the like power, as if a suit had been instituted by the decree-holder as plaintiff against the judgment-debtor and the objector as defendants.

(3) Where the liability of any person has been tried and determined under sub-section (2), the order made thereon shall have the same force and be subject to the same conditions as to appeal or otherwise as if it were a decree.

(4) Save as against any property of the partnership, a decree against a firm shall not release, render liable, or otherwise affect, any partner therein who was outside the local limits of the jurisdiction of the Court ***which passed the decree,*** when the summons was issued and who has not appeared in compliance with such summons, unless service has been made upon such partner in accordance with the provisions of Chapter VII or, if he has come within such local limits after the summons was issued, in the manner provided by section 469A, sub-section ***(5).***

[*Ibid*, r. 9.] ***(5)*** Debts owing from a firm carrying on business within the local limits of the jurisdiction of the Court ***executing the decree*** may be attached in the manner prescribed by sections 268AA to 268D, although one or more partners in such firm may be resident abroad:

Provided that any person having the control or management of the partnership business or any partner in the firm within such local limits is served with the garnishee order.

(6) An appearance by any partner in pursuance of an order shall be deemed to be a sufficient appearance by the firm.

469E. Sections 469A to 469D shall be deemed to apply to suits between a firm and one or more of the partners therein and to suits between firms having one or more partners in common, provided that such firm or firms ***carries or*** carry on business within the local limits of the jurisdiction of the Court; but no execution shall be issued in such suits except by leave of the Court, and, on an application for leave to issue such execution, all such accounts and inquiries may be directed to be taken and made and directions given as may be just. [*Ibid*, r. 10.]

Suits between co-partners.

469F. Any person carrying on business within the local limits of the jurisdiction of a Court in a name or style other than his own may be sued in such name or style as if it were a firm name; and the foregoing provisions of this Chapter shall, so far as they are applicable, be deemed to apply. [*Ibid*, r. 11.]

Suit against person carrying on business in name other than his own.

CHAPTER XXXV.

INTERPLEADER.

470. Where two or more persons claim adversely to one another the same ***debt, sum of money or other*** property, ***moveable or immoveable,*** from another person, whose only interest therein is that of a mere stakeholder and who is ready to render it to the right owner, such stakeholder may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to whom the payment or property shall be made or delivered, and of obtaining indemnity for himself:

Where interpleader-suit may be instituted.

Provided that, where any suit ***or other proceeding*** is pending in which the rights of all parties can properly be decided, the stakeholder shall not institute a suit of interpleader.

471. In every suit of interpleader the plaint shall, in addition to the other statements necessary for plaints, state—

Plaint in interpleader suit.

(*a*) that the plaintiff has no interest in the thing claimed otherwise than as a mere stakeholder;

(*b*) the claims made by the defendants severally; and

(*c*) that there is no collusion between the plaintiff and any of the defendants.

472. Where the ***property*** claimed is capable of being paid into Court or ***placed*** in the custody of the Court, the plaintiff ***may be required*** so

Payment or deposit in Court.

The Code of Civil Procedure, 190 .

(Part IV.—Of Suits in Particular Cases.—Chapter XXXV.—Interpleader.—Sections 473-476. Part V.—Provisional Remedies.—Chapter XXXVI.—Of Arrest and Attachment before Judgment.—Section 477.)

to pay or ***place*** it before he can be entitled to any order in a suit of interpleader.

Procedure at first hearing.

473. (*1*) At the first hearing the Court may—

(*a*) declare that the plaintiff is discharged from all liability to the defendants in respect of the ***property*** claimed, award him his costs, and dismiss him from the suit; or,

(*b*) if it thinks that justice or convenience so requires, retain all parties until the final disposal of the suit.

(2) The Court may,—

(*a*) if it finds that the admissions of the parties or other evidence enable it to do so, adjudicate the title to the ***property*** claimed; or

(*b*) direct the defendants to interplead one another by filing statements and entering into evidence for the purpose of bringing their respective claims before the Court, and adjudicate on such claims.

Bar of interpleader-suits by agents or tenants.

474. Nothing in this Chapter shall be deemed to enable agents to sue their principals, or tenants to sue their landlords, for the purpose of compelling them to interplead with any persons other than persons making claim through such principals or landlords.

Illustrations.

(*a*) A deposits a box of jewels with B as his agent. C alleges that the jewels were wrongfully obtained from him by A, and claims them from B. B cannot institute an interpleader-suit against A and C.

(*b*) A deposits a box of jewels with B as his agent. He then writes to C for the purpose of making the jewels a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an interpleader-suit against A and C.

Charge of plaintiff's costs.

475. Where a suit of interpleader is properly instituted, the Court may provide for the costs of the plaintiff by giving him a charge on the ***property*** claimed or in some other effectual way.

Procedure where defendant is suing stake-holder.

476. Where any of the defendants in a suit of interpleader is actually suing the stake-holder in respect of the subject-matter of such suit, the Court in which the suit against the stake-holder is pending shall, on being duly informed by the Court which passed the decree in the suit of interpleader in favour of the stake-holder, that such decree has been passed, stay the proceedings as against him; and his costs in the suit so stayed may be provided for in such suit; but, if and in so far as they are not provided for in that suit, they may be added to his costs incurred in the suit of interpleader.

PART V.
PROVISIONAL REMEDIES.

CHAPTER XXXVI.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

Arrest before judgment.

Application during suit for security from defendant.

477. (*1*) Where at any stage of a suit, other than a suit ***of the nature referred to in section 16, clauses (a) to (d)***, the Court ***is satisfied, upon the application of the plaintiff supported*** by affidavit ***and after examining the applicant or the person making the affidavit and making such further inquiry as it thinks fit,—***

(***a***) that the defendant, with intent to avoid or delay the plaintiff, or to avoid any process of the Court, or to obstruct or delay the execution of any decree that may be passed against him,—

(*i*) has absconded or left the local limits of the jurisdiction of the Court, or

(*ii*) is about to abscond or leave the local limits of the jurisdiction of the Court, or

(*iii*) has disposed of or removed from the local limits of the jurisdiction of the Court his property or any part thereof, or

(***b***) that the defendant is about to leave British India ***in*** circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

the Court may issue a warrant to arrest the defendant and bring him before the Court to show cause why he should not give security for his appearance to satisfy any decree that may be passed against him in the suit:

Provided that the defendant shall not be arrested if he pays to the officer executing the warrant any sum specified in the warrant as sufficient to satisfy the plaintiff's claim; and such sum shall be held in deposit by the Court until the suit is disposed of or until the further order of the Court.

(***2***) If the defendant fails to show such cause, the Court shall order him either to deposit in Court money or other property sufficient to answer the claim against him, or to give security for his appearance at any time when called upon while the suit is pending and until execution or satisfaction of any decree that may be passed against him in the suit, ***or make such order as it thinks fit in regard to the sum which***

The Code of Civil Procedure, 190 .

(Part V.—Provisional Remedies.—Chapter XXXVI.—Of Arrest and Attachment before Judgment.—Sections 480, 481, 491A, 482, 483, 487, 488.)

may have been paid by the defendant under the proviso to sub-section (1).

(*3*) Every surety for the appearance of a defendant shall bind himself, in default of such appearance, to pay any sum of money which the defendant may be ordered to pay in the suit.

480. (*1*) A surety for the appearance of a defendant may at any time apply to the Court in which he became such surety, to be discharged from his obligation.

Procedure on application by surety to be discharged

(*2*) On such application being made, the Court shall summon the defendant to appear, or, if it thinks fit, may issue a warrant for his arrest in the first instance.

(*3*) On the appearance of the defendant in pursuance of the summons or warrant, or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security.

481. (*1*) Where the defendant fails to comply with an order made under section 477, sub-section (*3*,) or section 480, the Court may commit him to ***the civil*** prison until the decision of the suit, or, where ***a decree is passed*** against the defendant, until the execution of the decree:

Procedure where defendant fails to give security or find fresh security.

Provided that no person shall be detained in prison under this section in any case for a longer period than six months, nor for a longer period than six weeks when the amount or value of the subject-matter of the suit does not exceed fifty rupees:

Provided, also, that no person shall be detained in prison under this section after he has complied with the order under section 477, sub-section (*2*), or section 480, as the case may be.

(2) The provisions of section 342A shall be deemed to apply to a defendant committed to the civil prison under sub-section (1), as though for the word "judgment-debtor" and the figures "342" the word "defendant" and the figures "481", respectively, were substituted.

[New.] 491A. Nothing in this Chapter shall be deemed to authorize a Court to order the arrest or detention in prison of any woman who would not, by reason of the provisions of section 245A, be liable to arrest or detention in prison in execution of a decree for the payment of money.

Prohibition of arrest of women before judgment.

482. The provisions of section 338, sub-sections (*2*) to (*5*), as to allowances payable for the subsistence of judgment-debtors shall be deemed to apply to all defendants arrested under this Chapter.

Subsistence-allowance of defendants arrested.

Attachment before judgment.

[483, 484.] 483. (*1*) Where, at any stage of a suit, the Court ***is satisfied upon the application of the plaintiff supported*** by affidavit ***and after such further inquiry (if any) as it thinks fit,*** that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,—

Application before judgment for security from defendant, and in default for attachment of property.

(*a*) is about to dispose of the whole or an part of his property, or

(*b*) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Court in which the suit is pending, or

(*c*) has quitted the local limits of the jurisdiction of the Court, leaving therein property belonging to him,

the Court may direct the defendant, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

(*2*) Every application made under this section shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

(*3*) The Court may also in the order direct the conditional attachment of the whole or any portion of the property specified in the application.

(*4*) If the defendant fails to show cause why he should not furnish security, or fails to furnish the security required, within the time fixed by the Court, the Court may order that the property specified in the application, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, be attached. [485.]

(*5*) If the defendant shows such cause or furnishes the required security, and the property specified in the application or any portion of it has been attached, the Court shall order the attachment to be withdrawn.

(*6*) The attachment shall be made in the manner provided by this Code for the attachment of property in the execution of a decree for the payment of money. [486.]

Explanation.—For the purposes of this section, property includes property of every description, whether moveable or immoveable ***and, save where otherwise expressly stated, whether within or without the local limits of the Court's jurisdiction.***

487. Where a claim is preferred to property attached before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in the execution of a decree for the payment of money.

Investigation of claim to property attached before judgment.

488. Where an order is made for attachment before judgment, the Court which made the order shall remove the

Removal of attachment when security furnished or suit dismissed.

The Code of Civil Procedure, 190 .

(Part V.—Provisional Remedies.—Chapter XXXVI.—Of Arrest and Attachment before Judgment.—Sections 489-491. Chapter XXXVII.—Of temporary Injunctions and Interlocutory Orders.—Sections 492, 493.)

attachment when the defendant furnishes the security required, together with security for the costs of the attachment, or when the suit is dismissed.

Attachment before judgment not to affect rights of strangers, nor bar decree-holder from applying for sale.

489. Attachment before judgment shall not be deemed to affect the rights existing prior to the attachment, of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree; and it shall confer no priority as against the assignee entitled to the property of an insolvent under a vesting order made after such attachment but before the passing of a decree.

Property attached before judgment not to be re-attached in execution of decree.

490. Where property is attached before judgment and a decree is subsequently passed in favour of the plaintiff, it shall not be necessary, ***if the attachment is still subsisting when application for the execution of the decree is made,*** to re-attach the property in execution of such decree.

[New.] Agricultural produce not attachable before judgment.

490A. Nothing in this Chapter shall be deemed to authorize the plaintiff to apply for the attachment of any ***agricultural produce*** in the possession of an agriculturist, or to empower the Court to order the attachment or production of such ***produce***, otherwise than in execution of a decree.

Compensation for improper arrest or attachment.

Compensation for obtaining arrest or attachment on insufficient grounds.

491. (*1*) Where, in any suit in which an arrest or attachment has been effected,—

(*a*) it appears to the Court that such arrest or attachment was applied for on insufficient grounds, or

(*b*) the suit of the plaintiff fails and it appears to the Court that there was no probable ground for instituting the same,

the defendant, whether process in the suit has or has not been served upon him, may apply to the Court, and the Court may, upon such application, award against the plaintiff in its decree such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the arrest or attachment, ***and the order awarding such amount may be executed as if it were a decree:***

Provided that ***a*** Court ***competent to try a suit for compensation*** shall not award ***an*** amount ***exceeding the amount for which*** it might ***pass a*** decree in ***such*** a suit:

Provided also that a Court, not so competent, shall not award an amount exceeding the limits of its pecuniary jurisdiction or the sum of five hundred rupees, whichever is the less.

(*2*) An award under this section shall bar any suit for compensation in respect of such arrest or attachment.

CHAPTER XXXVII.

OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

Temporary injunctions.

Cases in which temporary injunction may be granted.

492. Where in any suit it is proved, by affidavit or otherwise,—

(*a*) that any property in dispute in the suit is in danger of being wasted, damaged or alienated by any party to the suit or ***improperly*** sold in execution of a decree ***in another suit***, or

(*b*) that the defendant threatens, or is about, to remove or dispose of his property with intent to defraud his creditors,

the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property as it thinks fit ***until the suit is disposed of or until the further order of the Court.***

Injunction to restrain repetition or continuance of breach.

493. (*1*) In any suit for restraining the defendant from committing ***any*** breach of contract or ***tortious act***, whether compensation is claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or ***tortious act*** complained of, or any breach of contract or ***tortious act*** of a like ***nature*** arising out of the same contract or relating to the same property or right.

(*2*) The Court may, by order, grant such injunction on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as it thinks fit.

(*3*) In case of disobedience, ***or of breach of any such terms, the Court granting the injunction may order the person guilty of such disobedience or breach to be detained in the civil prison either—***

(***a***) ***for a specified term not exceeding six months, or***

(***b***) ***subject to a maximum period of six months, until the Court directs his release,***

The Code of Civil Procedure, 190 .

(Part V.—Provisional Remedies.—Chapter XXXVII.—Of temporary Injunctions and Interlocutory Orders.—Sections 494—501.)

or may direct his property to be attached, or both.

(*4*) No attachment under sub-section (*3*) shall remain in force for more than one year, at the end of which time, if the defendant has not obeyed the injunction, the property attached may be sold, and out of the proceeds the Court may award to the plaintiff such compensation as it thinks fit and pay the balance (if any) to the defendant.

Notice to opposite party.

494. The Court shall in all cases, except where it appears that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice of the application for the same to be given to the opposite party.

Injunction to corporation **or company to bind** its members and officers.

495. An injunction directed to a corporation or company shall be binding, not only on the corporation or company itself, but also on all members and officers of the corporation or company whose personal action it purports to restrain.

Discharge, varying or setting aside of order for injunction.

496. Any order for an injunction may be discharged, varied or set aside by the Court, on the application of any party dissatisfied with such order.

497. (*1*) Where—

Compensation to defendant for issue of injunction on insufficient grounds.

(*a*) it appears to the Court that an injunction granted by it was applied for on insufficient grounds, or,

(*b*) after the issue of an injunction, the suit is dismissed or judgment is given against the plaintiff by default or otherwise and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such sum, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the issue of the injunction:

Provided that the Court shall not under this section award a larger amount than it might decree in a suit for compensation.

(*2*) An award under this section shall bar any suit for compensation in respect of the issue of the injunction.

Interlocutory orders.

Power to order interim sale of perishable articles.

498. The Court may, on the application of any party to a suit, order the sale, by any person named in such order and in such manner and on such terms as it think fit, of any moveable property, being the subject matter of such suit ***or attached before judgment in such suit,*** which is subject to speedy and natural decay.

Power to make order for detention, ***preservation or inspection or making inventory,*** of subject-matter, and to authorize entry, taking of samples and experiments.

499. (*1*) The Court may, on the application of any party to a suit and on such terms as it thinks fit,—

(*a*) make an order for the detention, preservation or inspection ***or making an inventory*** of any property which is the subject-matter of such suit **or as to which any question may arise therein;**

(*b*) for all or any of the purposes aforesaid, authorize any person to enter upon or into any land or building in the possession of any other party to such suit; and,

(*c*) for all or any of the purposes aforesaid, authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

(*2*) The provisions hereinbefore contained as to execution of process shall, **so far as they are applicable, be deemed to** apply to persons authorized to enter under this section.

Notice of application under section 498 or 499.

500. (*1*) An application by the plaintiff for an order under section 498 or section 499 may be made after notice in writing to the defendant at any time after service of the summons.

(*2*) An application by the defendant for a like order may be made after notice in writing to the plaintiff, and at any time after the applicant has appeared.

Putting of party in immediate possession of land the subject-matter of suit.

501. (*1*) Where land paying revenue to the Government, or a tenure liable to sale, is the subject-matter of a suit, if the party in possession of such land or tenure neglects to pay the Government revenue or the rent due, as the case may be, and such land or tenure is consequently ordered to be sold, any other party to the suit claiming to have an interest in such land or tenure may, upon payment of the revenue or rent due previously to the sale and with or without security at the discretion of the Court, be put in immediate possession of the land or tenure.

(*2*) The Court may, in a decree **passed under sub-section (*1*)**, award against the defaulter the

The Code of Civil Procedure, 190 .

(Part V.—Provisional Remedies.—Chapter XXXVII.—Of temporary Injunctions and Interlocutory Orders.—Section 502. Chapter XXXVIII.—Appointment of Receivers.—Sections 503-504.)

amount so paid, with interest thereupon at such rate as it thinks fit, or may charge the amount so paid, with interest thereupon at such rate as it thinks fit, in any adjustment of accounts which may be directed in the decree passed in the suit.

Deposit of money *or thing* in Court.

502. Where the subject-matter of a suit is money or some other thing capable of delivery, and any party thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party, the Court may order the same to be deposited in Court or delivered to such last-named party, with or without security, subject to the further directions of the Court.

CHAPTER XXXVIII.

APPOINTMENT OF RECEIVERS.

[Amended by VII of 1888, s. 42.]

Power of Court to appoint receivers.

503. (*1*) Where it appears to the Court to be necessary for the realization, preservation or better custody or management of any property, moveable or immoveable, the subject-matter of a suit or under attachment, the Court may, in its discretion, by order appoint a receiver of such property.

(*2*) Where the Court appoints a receiver of any property under sub-section (*1*), it may—

(*a*) remove the person in whose possession or custody the property is from the possession or custody thereof;

(*b*) commit the same to the custody or management of such receiver;

(*c*) confer upon such receiver all such powers as to bringing and defending suits, and for the realization, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of instruments in writing, as the owner himself has, or such of those powers as the Court thinks fit;

(*d*) by general or special order, fix the fee or commission on the rents and profits of the property to be paid in respect of the services of such receiver; and

(*e*) by general and special order, direct, in the case of a receiver other than an ***officer of the Court appointed to be*** receiver ***of estates,*** the remuneration to be paid to him out of such fee or commission.

(*3*) Every receiver appointed under this section shall—

(*a*) give such security (if any) as the Court thinks fit duly to account for what he receives in respect of the property;

(*b*) ***submit*** his accounts at such periods and in such form as the Court directs;

(*c*) pay the balance due from him thereon as the Court directs; and

(*d*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

(4) Where a receiver—

(a) fails to submit his accounts at such periods and in such form as the Court directs, or

(b) fails to pay the balance due from him thereon as the Court directs, or

(c) occasions loss to the property by his wilful default or gross negligence,

the Court may direct his property to be attached.

(5) No attachment under sub-clause (4) shall remain in force for more than one year, at the end of which time, if the receiver has not—

(a) submitted his accounts at such periods and in such form as the Court directs, or

(b) paid the balance due from him thereon as the Court directs, or

(c) made good any loss occasioned to the property by his wilful default or negligence,

as the case may be, the property attached may be sold, and out of the proceeds the Court shall apply to the property, of which he has been appointed receiver, such amount as it finds to be due from him as a balance or to make good any loss occasioned by his wilful default or negligence, and pay the balance (if any) to him.

(*6*) Nothing in this section shall be deemed to authorize the Court to remove from the possession or custody of property under attachment any person whom the parties to the suit, or some or one of them, have or has not a present right so to remove.

Appointment of Collector to be receiver.

504. Where the property is land paying revenue to the Government or land of which the revenue has been assigned or redeemed, the Court may, with the consent of the Collector, appoint the Collector to be the receiver of such property, if it considers that the interests of those concerned will be promoted by making such an appointment. [Amended by VII of 1888, s. 4...]

The Code of Civil Procedure, 190 .

(Part V.—Provisional Remedies.—Chapter XXXVIII.—Appointment of Receivers.—Section 505. Part VI.—Of Special Proceedings.—Chapter XXXIX.—Reference to Arbitration.—Sections 506-510.)

505. (**1**) The powers conferred by this Chapter shall be exercised only by ***the*** High Court and ***the*** District Court.

Exercise of powers under this Chapter.

(2) Where the Judge of a Court subordinate to a District Court considers it necessary that a receiver should be appointed in any suit before him, he shall nominate such person as he considers fit for such appointment and submit **the name of such person,** with the grounds for the nomination, to the District Court.

(3) On receiving a nomination under sub-section (2), the District Court ***may appoint or refuse*** to appoint the person nominated ***or any other person, and may give any necessary directions defining the powers of the person appointed by it, and may remove such person, and may, as occasion arises, make, upon the report of the subordinate Court, any*** such order ***as it might have made if it had appointed such person receiver of any property in any suit before it.***

PART VI.

OF SPECIAL PROCEEDINGS.

CHAPTER XXXIX.

REFERENCE TO ARBITRATION.

Arbitration in suits.

506. (*1*) Where all the parties to a suit ***or other proceeding*** desire that any matter in ***controversy*** between them in the suit ***or proceeding*** be referred to arbitration, they may, at any time before judgment is pronounced, apply, in person or by their respective pleaders specially authorized in writing in this behalf, to the Court for an order of reference.

Parties to suit may apply for order of reference.

(2) Every such application shall be in writing and shall state the matter sought to be referred.

(3) An application made under sub-section (1) shall not be withdrawn, nor shall any party withdraw therefrom, except by leave of the Court.

507. The arbitrator shall be nominated by the parties, **or elected or chosen** in such manner as may be agreed upon between them

Nomination, election or choice of arbitrator.

508. (*1*) The Court shall, by order, refer to the arbitrator the matter in ***controversy*** which he is required to determine, and shall fix such time as it thinks reasonable for the ***making*** of the award, and **shall** specify such time in the order.

Order of reference.

(*2*) Where a matter is referred to arbitration, the Court shall not, **save** as hereinafter provided, deal with **such matter** in the same suit ***or other proceeding.***

509. (*1*) **Where** the reference is to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators—

Where reference is to two or more, order to provide for difference of opinion.

(*a*) by the appointment of an umpire ; or

(*b*) by declaring that, if the **majority** of the arbitrators agree, the decision **of** the majority **shall prevail** ; or

(*c*) by empowering the arbitrators to appoint an umpire ; or

(*d*) otherwise as may be agreed between the parties, or, if they cannot agree, as the Court may determine.

(*2*) **When** an umpire is appointed, the Court shall fix such time as it thinks reasonable for the ***making*** of his award in case he is required to act.

510. (**1**) ***In any of the following cases, namely :—***

Power of Court to appoint arbitrator in certain cases.

(***a***) **where** the parties cannot agree within **a reasonable time,** with respect to ***the*** nomination, **election or choice *of an arbitrator,*** or the person nominated, **elected or** chosen refuses to accept the arbitration, ***or*** [507 (2).]

(*b*) where an arbitrator or umpire— [510.]

(*i*) dies, or

(*ii*) refuses or neglects ***to act*** or becomes incapable ***of acting,*** or

(*iii*) leaves British India ***in*** circumstances showing that he will probably not return at an early date, **or**

(***iv***) ***is removed by the Court, or***

(*c*) where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so, [511.]

any of the parties may serve ***the other parties or*** the arbitrators, ***as the case may be,*** with a written notice to ***nominate, elect or choose an arbitrator or*** to appoint an umpire.

(**2**) If, within seven clear days after such notice has been served or such further time as the Court may in each case allow, ***no arbitrator is nominated, elected or chosen or*** no umpire is appointed, ***as the case may***

The Code of Civil Procedure, 190 .

(Part VI.—Of Special Proceedings.—Chapter XXXIX.—Reference to Arbitration.—Sections 512-520.)

be, the Court may, on application by the party who gave the notice, ***and after giving the other party an opportunity of being heard,*** appoint an arbitrator or umpire or make an order superseding the arbitration, and in such case shall proceed with the suit ***or other proceeding:***

Provided that no appointment shall be made by the Court under this sub-section where it is expressly stated in the application under section 506 ***that the Court shall not have this power.***

Powers of arbitrator or umpire appointed under section 509 or 510.

512. Every arbitrator or umpire appointed under section 509 or section 510 shall have the like powers as if his name had been inserted in the order of reference.

[IX of 1899, s. 16.] Removal for misconduct.

512A. ***Where an arbitrator or an umpire misconducts himself, the Court may remove him.***

Summoning witnesses and default.

513. (*1*) The Court shall issue the same processes to the parties and witnesses whom the arbitrators or umpire desire or desires to examine, as the Court may issue in suits tried before it.

(*2*) Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments, by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court.

Extension of time for making award.

514. Where the arbitrators or the umpire cannot complete the award within the period specified in the order, the Court may, if it thinks fit, either allow further time, and from time to time, either before or after the expiry of the period fixed for the ***making*** of the award, enlarge such period; or may make an order superseding the arbitration and in such case shall proceed with the suit ***or other proceeding.***

Where umpire may arbitrate in lieu of arbitrators.

515. Where an umpire has been appointed, he may enter on the reference in the place of the arbitrators,—

(*a*) if they have allowed the appointed time to expire without making an award, or

(*b*) if they have delivered to the Court or to the umpire a notice in writing stating that they cannot agree.

Award to be signed and filed.

516. (*1*) Where an award in a suit ***or other proceeding*** has been made, the persons who made it shall sign it and cause it to be filed in Court, together with any depositions and documents which have been taken and proved before them; and notice of the filing shall be given to the parties.

(*2*) An award shall not be deemed invalid merely because it has not been signed by all the arbitrators at one and the same time and by each in the presence of the others; but it shall be signed by each arbitrator ***making the award*** either immediately after it has been made or within such period as the Court may find to be reasonable.

Statement of special case by arbitrators or umpire.

517. Upon any reference by an order of the Court, the arbitrators or umpire may, with the consent of the Court, state the award as to the whole or any part thereof in the form of a special case for the opinion of the Court; and the Court shall deliver its opinion thereon; and such opinion shall be added to and form part of the award.

Power to modify or correct award.

518. The Court may, by order, modify or correct an award,—

(*a*) where it appears that a part of the award is upon a matter not referred to arbitration, and such part can be separated from the other part and does not affect the decision on the matter referred; or

(*b*) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision; or

(*c*) where the award contains a clerical mistake or ***an*** error arising from an accidental slip or omission:

Order as to the costs of arbitration.

519. The Court may also make such order as it thinks fit respecting the costs of the arbitration where any question arises respecting such costs and the award contains no sufficient provision concerning them.

Where award or matter referred to arbitration may be remitted.

520. The Court may remit the award or any matter referred to arbitration to the reconsideration of the same arbitrators or umpire, upon such terms as it thinks fit,—

(*a*) where the award has left undetermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration ***unless such matter can be separated without affecting the determination of the matters referred;***

(*b*) where the award is so indefinite as to be incapable of execution;

(*c*) where an objection to the legality of the award is apparent upon the face of it;

The Code of Civil Procedure, 190 .

(Part VI.—Of Special Proceedings.—Chapter XXXIX.—Reference to Arbitration.—Sections 521—524.)

(*d*) where the award contains a clerical mistake or ***an*** error arising from an accidental slip or omission;

(*e*) where, for any other sufficient reason, the Court is of opinion that the award should be reconsidered by the arbitrators or umpire.

Grounds for setting a side award.

521. (*1*) An award may be set aside by the Court on any of the following grounds, namely:—

(a) that the arbitration or the award has been improperly procured;

(b) that an arbitrator or ***the*** umpire ***has been guilty of*** corruption or misconduct;

(*c*) ***that*** the award ***has*** been made after the issue of an order by the Court superseding the arbitration and restoring the suit ***or other proceeding:***

(*d*) ***that*** the award ***has*** not been made within the period fixed or enlarged by the Court;

(*e*) ***that*** the arbitrators or umpire have refused to reconsider the award when remitted to them under section 520, clauses (*a*) to (*d*):

Provided that no award shall be set aside on the ground specified in clause (***d***), unless an express objection on that ground has, before the time for making an application to set aside the award, been made by the parties to the reference, or by any of them.

(***2***) No award shall be set aside save as provided by sub-section (***1***).

Judgment to be according to award.

522. (*1*) Where the Court sees no cause to remit the award or any of the matters referred to arbitration for re-consideration in manner aforesaid, and no application has been made to set aside the award, or the Court has refused such application, the Court shall, after the time for making such application has expired, proceed, ***subject to such modification or correction (if any) as may be made under section 518,*** to deliver judgment according to the award, or, if the award has been submitted to it in the form of a special case, according to its own opinion on such case.

(***2***) Upon the judgment so delivered a decree ***or final order*** shall follow, and shall be enforced in the manner hereinbefore provided for the execution of decrees ***and orders.***

Agreements to refer to arbitration.

Application to file in Court agreement to refer to arbitration.

523. (*1*) Where any persons agree in writing that any difference between them, present or future, shall be referred to arbitration, the parties to the agreement, or any of them, may apply to any Court having jurisdiction in the matter to which the agreement relates, at any time before a final award has been made in pursuance of such agreement, that the agreement be filed in Court.

(*2*) The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or defendant, if the application has been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

(*3*) On such application being made, the Court shall, ***unless it sees reason to dismiss the application without notice,*** direct notice thereof to be given to all the parties to the agreement, other than the applicants, requiring such parties to show cause, within the time specified in the notice, why the agreement should not be filed.

(*4*) Where no sufficient cause is shown, the Court may cause the agreement to be filed, and, if and when any such difference has arisen, shall make an order of reference to an arbitrator or arbitrators nominated, elected or chosen in accordance with the provisions of section 507, and may also nominate the arbitrator, when he is not named therein and the parties cannot agree as to the nomination.

Stay of proceedings where there is an agreement to refer to arbitration.

523A. Where any party to an agreement to refer to arbitration, or any person claiming under him, commences any ***suit or other*** proceeding against any other party to the agreement, or any person claiming under him, in respect of any matter agreed to be referred, any party to such ***suit or*** proceeding may, at ***or before the first hearing or, where issues are settled, at or before such settlement,*** apply to the Court to stay the ***suit or*** proceeding; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the agreement to refer to arbitration, and that the applicant was, at the time when the ***suit or*** proceeding ***was*** commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the ***suit or*** proceeding. [IX of 18 s. 19.]

Provisions of Chapter applicable to proceedings under section 523.

524. The foregoing provisions of this Chapter, so far as they are consistent with any agreement filed under section 523, shall be applicable to all proceedings under the order of reference made by the Court under that section, and to the award

The Code of Civil Procedure, 190 .

(Part VI.—Of Special Proceedings.—Chapter XXXIX.—Reference to Arbitration.—Sections 525-526B. Chapter XL.—Of Proceedings on Agreement of Parties.—Sections 527-529.)

and to the execution of the decree following thereon.

Arbitration without the intervention of a Court.

525. (1) Where any matter has been referred to arbitration without the intervention of a Court, and an award has been made thereon, any person interested in the award may apply to the Court of the lowest grade having jurisdiction over the matter to which the award relates, that the award be filed in Court.

Filing award in matter referred to arbitration without intervention of Court.

(2) The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

(3) The Court shall direct notice to be given to the parties to the arbitration, other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

(4) Save as provided by this section, no persons interested in the award shall institute or maintain any suit or other proceeding for the purpose either of causing the award to be filed or enforced or of obtaining any relief with respect to the matter referred.

526. (1) The Court shall determine all questions relating to the existence and validity of an agreement to refer to arbitration or of an award, and, where it finds that there has been a valid agreement to refer and a valid award under it, it shall order such award to be filed; and such award shall thereupon take effect as an award made under the provisions of this Chapter.

Filing of such award.

(2) For the purposes of this section, the Court shall have all the powers conferred ***and shall perform all the duties imposed*** upon it by sections 518 to 522.

Appeals from decrees on award.

526A. (1) ***In any case in which an appeal lies from an original or appellate decree under this Code or any other law for the time being in force, an appeal shall lie from a decree or final order upon an award, or from an order setting side or refusing to file an agreement or an award, on one or more of the following grounds, namely:—***

Appeals.

(a) that there has been no valid submission to arbitration, or

(b) that there has been no valid award, or

(c) that the Court has failed to perform any duty imposed upon it, or has failed to exercise or improperly exercised a discretion conferred upon it, by this Chapter.

(2) Save as provided by sub-section (1), no appeal shall lie from a decree passed or order made in any proceeding under this Chapter.

526B. The last thirty-seven words of section 21 of the Specific Relief Act, 1877, shall not apply to any agreement to refer to arbitration, or to any award, to which the provisions of this Chapter apply. [I of 1877, s. 3.]

Exclusion of certain words in the Specific Relief Act, 1877.

CHAPTER XL.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

527. (1) Parties claiming to be interested in the decision of any question of fact or of law may enter into an agreement in writing stating such question in the form of a case for the opinion of the Court, and providing that, upon the finding of the Court with respect to such question,—

Power to state case for opinion of Court.

(a) a sum of money fixed by the parties or to be determined by the Court shall be paid by one of the parties to the other of them; or

(b) some property, moveable or immoveable, specified in the agreement shall be delivered by one of the parties to the other of them; or

(c) one or more of the parties shall do, or refrain from doing, some other particular act specified in the agreement.

(2) Every case stated under this section shall be divided into consecutively numbered paragraphs, and shall concisely state such facts and specify such documents as may be necessary to enable the Court to decide the question raised thereby.

528. Where the agreement is for the delivery of any property, or for the doing, or the refraining from doing, any particular act, the estimated value of the property to be delivered, or of the property (if any) to which the act specified has reference, shall be stated in the agreement.

Where value of subject-matter to be stated.

529. (1) The agreement, if framed in accordance with the foregoing provisions, may be filed in the Court which would have jurisdiction to entertain a suit, the amount or value of the subject-

Agreement to be filed and numbered as suit.

The Code of Civil Procedure, 190 .

(Part VI.—Of Special Proceedings.—Chapter XLI.—Of Summary Procedure on Negotiable Instruments.—Sections 532-535.)

matter of which is the same as the amount or value of the subject-matter of the agreement.

(*2*) Every agreement, when so filed, shall be numbered and registered as a suit between one or more of the parties claiming to be interested, as plaintiff or plaintiffs, and the other or others of them as defendant or defendants; and notice shall be given to all the parties to the agreement, other than the party or parties by whom it was presented.

[530.] (*3*) Where an agreement has been so filed, the parties to it shall be subject to the jurisdiction of the Court and shall be bound by the statements contained in the agreement.

[531.] (*4*) The case shall be set down for hearing as a suit instituted under Chapter VI, the provisions of which shall, so far as they are applicable, be deemed to apply.

(*5*) Where the Court is satisfied, after an examination of the parties or after taking such evidence as it thinks fit,—

(*a*) that the agreement was duly executed by them, and

(*b*) that they have a *boná fide* interest in the question stated therein, and

(*c*) that the same is fit to be decided,

it shall proceed to deliver judgment thereon, in the same way as in an ordinary suit, and upon the judgment so delivered a decree shall follow and shall be executed in the manner provided by this Code for the execution of decrees.

CHAPTER XLI.

OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

Institution of summary suits upon bills of exchange, etc.

532. (*1*) In any Court to which this Chapter applies, all suits upon bills of exchange, hundis or promissory notes may, in case the plaintiff desires to proceed under this Chapter, be instituted by presenting a plaint in the form prescribed by this Code; but the summons shall be in the form No. 172 contained in the third schedule, or in such other form as the High Court may from time to time prescribe.

(*2*) In any case in which the plaint and summons are in such forms respectively, the defendant shall not appear or defend the suit unless he obtains leave from a Judge as hereinafter provided so to appear and defend.

(*3*) In default of the defendant obtaining such leave or of his appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with interest at the rate specified or, where no rate is specified, at a rate ***not exceeding six per centum per annum,*** to the date of the decree, and a sum for costs to be fixed by a rule of the High Court, unless the plaintiff claims more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be executed forthwith.

(*4*) The defendant shall not be required to pay into Court the sum mentioned in the summons or to give security therefor, unless the Court thinks his defence not to be *primâ facie* sustainable, or feels reasonable doubt as to its good faith.

(5) The provisions of this section shall not be deemed to be inapplicable to a suit merely because the cause of action includes facts which, if not admitted by the defendant, would have to be proved by the plaintiff.

Illustrations.

(a) A sues B upon a promissory note bearing an endorsement of payment which has been cancelled. This section is not inapplicable merely because A must prove that the note was endorsed by inadvertence, but that payment was not made and the endorsement cancelled in consequence.

(b) A executes, in favour of B, a promissory note for Rs. 1,000, payable in two equal instalments on the 1st July and 1st September, respectively, with a stipulation that, in default of payment of the first instalment, the whole amount shall become immediately payable. On the 13th July, B sues A for the whole amount. This section is not inapplicable merely because B must allege and prove that the first instalment was not paid on the 1st July.

Defendant showing defence on merits to have leave to appear.

533. (*1*) The Court shall, on the application of the defendant, grant him leave to appear and to defend the suit, upon his paying into Court the sum mentioned in the summons, or upon affidavits showing, to the satisfaction of the Court, a defence or such facts as would make it incumbent on the holder to prove consideration, or other facts sufficient to support the application, and on such terms as to security, framing and recording issues, or otherwise, as the Court thinks fit.

(*2*) The leave referred to in sub-section (*1*) may be given upon an *ex parte* application:

Provided that, in any such case, the plaintiff shall be entitled to show, by affidavit or otherwise, that leave should not have been granted or should have been granted on more stringent terms.

Power to set aside decree.

534. After decree the Court may, under special circumstances, set aside the decree and, if necessary, stay or set aside execution, and may grant leave to the defendant to appear and defend the suit, if it seems reasonable to the Court so to do, and on such terms as the Court thinks fit.

Power to order bill, etc., to be deposited with officer of Court.

535. In any proceeding under this Chapter the Court may order the bill, hundi or promissory note on which the suit is founded, to be forthwith deposited with an officer of the Court, and may further order that all proceedings be stayed until the plaintiff gives security for the costs thereof.

The Code of Civil Procedure, 190 .

(Part VI.—Of Special Proceedings.—Chapter XLI.—Of Summary Procedure on Negotiable Instruments.—Sections 536, 537. Chapter XLII.—Of Suits relating to Public Charities.—Section 539. Part VII.—Of Appeals.—Chapter XLIII.—Of Appeals from original Decrees.—Section 540.)

Recovery of cost of noting non-acceptance of dishonoured bill or note.

536. The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under this Chapter for the recovery of the amount of such bill or note.

Procedure in suits under this Chapter.

537. Save as otherwise provided by this Chapter, the procedure in suits under this Chapter shall be the same as the procedure in suits instituted under Chapter VI.

Amended r VI of oo.]

Application of Chapter.

538. (*1*) The provisions of this Chapter shall apply only to—

(*a*) the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay;

(*b*) the Chief Court of Lower Burma;

(*c*) the Presidency Courts of Small Causes in Calcutta, Madras and Bombay;

(*d*) the Court of the Judge of Karáchi; and

(*e*) any other Court having ordinary original civil jurisdiction to which the Local Government may, by notification in the local official Gazette, apply them.

(*2*) The Local Government may in like manner direct by whom any of the powers and duties incident to the provisions so applied shall be exercised and performed, and make any rules which it thinks fit for carrying the same into operation.

(*3*) ***After the expiration of*** one month ***from the publication of*** a notification under sub-section (*1*), clause (*e*), the said provisions shall apply accordingly, and the rules so made shall have effect as if enacted in this Code.

CHAPTER XLII.

OF SUITS RELATING TO PUBLIC CHARITIES.

nended by I of 1888, 14.]

When suits relating to public charities may be brought.

539. (*1*) In the case of the alleged breach of any express or constructive trust created for public purposes ***of a*** charitable or religious ***nature,*** or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate General, or two or more persons having an interest in the trust and having obtained the consent in writing of the Advocate General, may institute a suit, whether contentious or otherwise, in the High Court, or in the District Court within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate, to obtain a decree—

(*a*) removing any trustee,

(*b*) appointing a new trustee or new trustees under the trust;

(*c*) vesting any property in the trustees under the trust;

(*d*) recovering any of the trust-property from the hands of the trustees or of third parties;

(*e*) declaring what proportion of, or interest in, the trust-property shall be assigned for the fulfilment of any particular object of the trust;

(*f*) authorizing the whole or any part of the trust-property to be let, sold, mortgaged or exchanged;

(*g*) settling a scheme for the management of the trust-property; or

(*h*) granting such further or other relief as the nature of the case may require.

(*2*) The powers conferred by this section on the Advocate General may, outside the Presidency-towns, be, with the previous sanction of the Local Government, exercised also by the Collector or by such officer as the Local Government may appoint in this behalf.

(*3*) ***Nothing in this section shall be deemed to limit or otherwise affect any right of suit which may exist under any other law for the time being in force.***

PART VII.

OF APPEALS.

CHAPTER XLIII.

OF APPEALS FROM ORIGINAL DECREES. [Amended by VII of 1888, s. 45.]

Appeal from original decree.

540. (*1*) Save in so far as is otherwise expressly provided by this Code or by any other law for the time being in force, an appeal shall lie from the decrees, or from any part of the decrees, of the Courts exercising original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts.

(*2*) An appeal may lie under this section from an original decree passed *ex parte*.

(*3*) ***Where an appeal lies under this section from a decree which by this Code is preliminary to a final decree, any party to the suit adversely affected by such preliminary decree may, at his option, either prefer a separate appeal from it, or after the passing of the final decree prefer a single appeal from both the decrees together.***

(*4*) Where the pecuniary value of an appeal determines the Court authorized to hear it within the meaning of this section, the test of jurisdiction shall be deemed to be the valuation of the original suit and not the

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.—Chapter XLIII.—Of Appeals from original Decrees.—Sections 540A-543.)

actual amount affected by the decree ***and involved in the appeal.***

[New.] 540A. ***(1)*** An appeal under section 540 may be preferred by any party to the suit ***or other proceeding*** adversely affected by the decree or, if such party is dead, by his legal representative, or by any transferee of his interest who, in so far as such interest is concerned, is bound by the decree.

Who may appeal.

(2) Where there are two or more legal representatives of a deceased party and they do not all join in preferring the appeal, those who do not join shall be made respondents.

(3) ***Where*** an appeal ***is*** preferred by or on behalf of any person claiming to be the transferee of ***the interest of*** any party, ***such person shall set forth his title in the memorandum of appeal or by separate application, and such appeal shall be rejected unless, at the time of the presentation of the memorandum or application or within such further period as may be allowed in this behalf, the title of such transferee*** is proved to the satisfaction of the Court.

541. ***(1)*** Every appeal shall be preferred in the form of a memorandum ***signed*** by the appellant ***or his pleader (if any) and*** presented ***to the Court or such officer as it appoints in this behalf; and the person presenting the memorandum shall, at or before the time of presentation, endorse or cause to be endorsed thereon his name, description and place of residence.***

Form of appeal.

(2) The memorandum of appeal shall be accompanied by—

(a) a copy of the decree appealed from, and

(b) a copy of the judgment on which the decree is founded:

Provided that the Court may, in its discretion, dispense with either or both of the copies referred to in clauses (a) and (b) or fix a period within which either or both of such copies shall be filed, and may from time to time extend such period.

541A. The memorandum of appeal shall ***contain the following particulars, namely:—***

Particulars to be contained in memorandum.

(a) the name of the Court in which the appeal is preferred;

(b) the name, description and place of residence of the appellant;

(c) the name, description and place of residence of the respondent, so far as they can be ascertained;

(d) where the appellant or the respondent is a minor, a statement to that effect;

(e) a plain and concise statement in numbered paragraphs and without narrative or argument, of the grounds of objection to the decree appealed from;

(f) a prayer for the relief which the appellant claims; and

(g) a statement of the value of the subject-matter of the suit for the purposes of jurisdiction and of the appeal for the purposes of court-fees.

542. The appellant shall not, except by leave of the Court, urge or be heard in support of any ground of objection not set forth in the memorandum of appeal a provided by ***section 541A,*** or ***any ground of objection on any matter of fact*** not taken ***or taken and waived*** in the Court which passed the decree appealed from:

Grounds which may be taken in appeal.

Provided that the Appellate Court, in deciding the appeal, shall not be confined to the grounds of objec ion set forth in the memorandum of atpeal as provided by section 541A or taken by leave of the Court under ***this*** section:

Provided, also, that the Appellate Court shall not rest its decision on any other ground unless the party adversely affected thereby has had a sufficient opportunity for contesting the case on that ground.

543. ***(1) The memorandum of appeal may, in the discretion of the Court,—***

Amendment of memorandum of appeal.

(a) at any time before judgment, be amended by the Court upon such terms as to the payment of costs as the Court thinks fit;

(b) at or before the hearing of the appeal, be returned for amendment within a period to be fixed by the Court and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if—

(i) it is not signed as hereinbefore required, or

(ii) it does not state correctly and without prolixity the several par-

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.—Chapter XLIII.—Of Appeals from original Decrees.—Section 543A—543E.)

ticulars hereinbefore required or contains particulars other than those so required:

Provided that a memorandum of appeal shall not be amended either by the Court or by the party to whom it is returned for amendment so as to convert an appeal of one character into an appeal of a different and inconsistent character.

(2) Where a memorandum of appeal is amended under this section, the amendment shall be signed or initialled by the Judge or by such officer as he may appoint in this behalf.

(3) Where the memorandum of appeal has been returned for amendment and duly amended, the appeal shall be deemed to have been preferred on the date when the memorandum was first presented.

Rejection of memorandum of appeal.

543A. (1) The memorandum of appeal may, in the discretion of the Court, at or before the hearing, be rejected if—

(a) it does not disclose a ground of objection to the decree appealed from, or

(b) it is obviously frivolous or vexatious, or

(c) it is not accompanied by the copies required by section 541.

(2) The memorandum of appeal shall at any stage of the trial be rejected, if—

(a) the relief sought is undervalued, and the appellant, on being required by the Court to correct the valuation within a period to be fixed by the Court, fails to do so; or

(b) the memorandum is written upon paper insufficiently stamped and the appellant, on being required by the Court to supply the requisite stamp-paper within a period to be fixed by the Court, fails to do so; or

(c) the appeal appears from the statement in the memorandum to be barred by any enactment or rule of law; or

(d) the memorandum, having been returned for amendment within a period fixed by the Court, is not amended within such period; or

(e) the copies required by section 541 are not furnished within a time to be fixed by the Court.

Saving of power of Court to prevent abuse of procedure.

543B. ***Nothing in sections 543 and 543A shall be deemed to limit or otherwise affect the inherent power of the Court at any time to stay or dismiss any suit or other proceeding or to strike out any passage in any written statement, memorandum of appeal or application, which is shown to the satisfaction of the Court to be frivolous or vexatious, scandalous and impertinent, or in any way an abuse of its procedure.***

Validation of certain memoranda of appeal.

543BB. (*1*) Where a memorandum of appeal has been presented within the time allowed by the law of limitation for the time being in force, but is written upon paper insufficiently stamped, and the insufficiency of the stamp was caused by a mistake on the part of the appellant as to the amount of the requisite stamp, ***the Court shall, on his application, fix a period within which he shall supply such requisite stamp.*** [Cf. 58...]

(2) ***Where the appellant supplies the requisite stamp within the period fixed under sub-section (1),*** or within such further period as may from time to time be allowed by the Court, the memorandum of appeal shall have the same effect and be as valid as if it had been properly stamped.

(3) ***Where the appellant fails to supply the requisite stamp as required by sub-section (2),*** the memorandum shall be rejected.

Extension of time granted under section 543 or section 543A.

543C. ***Any period fixed by the Court under section 543 or section 543A may, from time to time, be extended, even though the original period has expired, if such extension appears to the Court to be reasonable and proper.***

Procedure on rejecting memorandum of appeal.

543D. ***Where a memorandum of appeal is rejected, the Judge shall record or cause to be recorded an order, to be signed by him, to that effect with the reasons therefor.***

When rejection of memorandum of appeal does not preclude preferment of fresh appeal.

543E. ***The rejection of a memorandum of appeal on any of the grounds hereinbefore mentioned shall not of its own force preclude the appellant from pre-***

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.— Chapter XLIII.—Of Appeals from original Decrees.—Sections 543F—546, 548, 549.)

ferring a fresh appeal from the same decree.

543F. ***(1) The memorandum of appeal shall, at any stage of the hearing, be returned to be presented to the proper Court if the appeal has been preferred in a Court other than a Court competent to hear it.***

Return of memorandum of appeal for presentation to proper Court.

(2) Where the memorandum of appeal is returned in accordance with the provisions of sub-section (1), the Judge shall endorse or cause to be endorsed thereon the date of its presentation and return, the name of the party presenting it, and a brief statement, to be signed by him, of the reasons for returning it.

(3) Where the proper fee has been levied on a memorandum of appeal returned under sub-section (1) and the appellant re-institutes the appeal by presenting such memorandum in another Court, it shall not be chargeable with any further court-fee.

544. Where there are two or more plaintiffs or defendants in a suit, and the decree appealed from proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal from the whole decree, and thereupon the Appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants, as the case may be.

Reversal or modification of whole decree proceeding on common ground and appealed from by one of several plaintiffs or defendants.

Execution of decrees under appeal.

545. ***(1) Where application is made to an Appellate Court for the stay of execution of a decree on the ground that an appeal has been preferred from it, or from a decision of the nature referred to in section 2, clause (f), sub-head (ii), passed in relation to the execution of such decree, the Court, on being satisfied that the application has been made without unreasonable delay, and that substantial loss may result to the applicant if execution of the decree is not stayed until the appeal is disposed of, may issue notice to the decree-holder to show cause why execution should not be stayed accordingly.***

Stay of execution of decree under appeal.

(2) After hearing such parties as may desire to be heard and receiving such evidence, by affidavit or otherwise, as they may adduce, the Court may order execution of the decree to be stayed until the appeal is disposed of, upon the condition that the applicant—

(a) deposits the decretal amount in Court, or

(b) gives such security as the Court may think reasonable for the due performance of such decree or order as may ultimately be binding upon him, unless the Court, in its discretion, thinks fit to dispense with such condition.

(3) Where the Court receiving an application of the nature referred to in sub-section (1) is satisfied that immediate stay of execution is necessary, it may make an ex parte order of the nature referred to in sub-section (2); but, in such case, the Court shall, in the notice to be given under sub-section (*1*), notify also the fact of the ***ex parte*** order and, after the hearing prescribed in sub-section (*2*), may either discharge the order ***or make it absolute.***

546. ***An Appellate Court shall, on sufficient cause being shown by the appellant, direct the Court which passed the decree to take security for the restitution of any property which may be taken in execution of the decree or for the payment of the value of such property or for the due performance of the decree or order of the Appellate Court.***

Security for execution of decree under appeal.

*Procedure on **admission of** appeal.*

548. Where a memorandum of appeal is admitted, the Appellate Court or the proper officer of that Court shall endorse thereon the date of its presentation, and shall register the appeal in a book to be kept for the purpose and called the register of appeals.

Registry of memorandum of appeal.

549. (*1*) The Appellate Court may, in its discretion, either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, **[Amended by VII of 1888, s. 46.]**

Security for costs from appellant.

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.—Chapter XLIII.—Of Appeals from original Decrees.—Sections 551, 552, 550, 553—555.)

demand from the appellant security for the costs of the appeal, or of the original suit, or of both:

Provided that the Court shall demand such security in all cases in which the appellant is residing out of British India and is not possessed of any sufficient immoveable property within British India ***other than*** the property (if any) to which the appeal relates.

(2) Where such security is not furnished within such period as the Court may fix, the Court shall reject the appeal.

(3) Where a period has been fixed under this section for furnishing security, the Court may, from time to time, extend it even though the original period has expired.

[Substituted VII of 1888, s. 47 (1).]

Power to dismiss appeal without notice to respondent.

551. (1) The Appellate Court may, after ***sending for the record, if it thinks fit to do so, and*** fixing a day ***and hour*** for hearing the appellant or his pleader and hearing him accordingly if he appears on that day, ***and at or after that hour, when the case is called on for hearing,*** dismiss the appeal without sending notice of the appeal to the Court from whose decree the appeal is preferred and without serving notice on the respondent or his pleader.

(2) Where on the day ***and at or after the hour*** fixed under sub-section (1), or any subsequent day ***and at or after the hour*** to which the hearing may be adjourned, the appellant does not ***appear when the appeal is called on for hearing,*** the appeal shall be dismissed for default.

(3) The dismissal of an appeal under this section shall be notified to the Court from whose decree the appeal is preferred.

[Amended by II of 1888, s. 47 (2).]

Day for hearing appeal.

552. (1) Unless the Appellate Court dismisses the appeal under section 551, it shall fix a day ***and hour*** for hearing the appeal ***and shall call upon the appellant to furnish, within such time as the Court may direct, as many copies on plain paper of the memorandum of appeal as there are respondents.***

(2) Such day ***and hour*** shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day ***and at such hour.***

Notice to Court below and transmission of papers.

550. (1) Where the appeal is ***not dismissed under section 551,*** the Appellate Court shall send notice of the appeal to the Court from whose decree the appeal is preferred.

(2) Where the appeal is from a decree of a Court whose records are not deposited in the Appellate Court, the Court receiving such notice shall send, with all convenient speed, all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

(3) Either party may apply in writing to the Court from whose decree the appeal is preferred, specifying any of the papers in such Court of which he requires copies to be made; and copies of such papers shall be made at the expense of the applicant, and shall be deposited ***in such Court.***

Publication and service of notice of day for hearing appeal.

553. (1) Notice of the day ***and hour*** fixed under section 552 shall be affixed in the appellate court-house, and a like notice shall be sent by the Appellate Court to the Court from whose decree the appeal is preferred, and shall be served, with a copy of the memorandum of appeal, on the respondent or on his pleader or, if there are two or more respondents, on each of them or their respective pleaders, in the Appellate Court in the manner provided in Chapter VII for the service on a defendant of a summons to appear and answer; and all the provisions applicable to such summons, and to proceedings with reference to the service thereof, shall apply to the service of such notice.

(2) Instead of sending the notice to the Court from whose decree the appeal is preferred, the Appellate Court may itself cause the notice and copy of the memorandum to be served on the respondent or his pleader under the provisions referred to in sub-section (1).

Contents of notice.

554. The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day ***and at the hour*** fixed, the appeal willbe heard *ex parte*.

*Procedure on hearing **of appeal.***

Hearing.

555. (1) The appellant shall be heard in support of the appeal—

(a) on the day fixed under section 552; or

(b) on any subsequent day to which the hearing may be adjourned; or,

(c) where the Appellate Court has published a list of appeals ***set down for hearing within a specified period and all the parties appearing are represented by pleader*** on any subsequent day ***within such period*** on which the hearing may be reached.

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.—Chapter XLIII.—Of Appeals from original Decrees.—Sections 556, 558, 559—561.)

(2) After hearing the appellant the Court shall, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

556. (1) Where on any such day as is referred to in section 555, sub-section (1), the appellant does not ***appear when the appeal is called on for hearing,*** the appeal shall be dismissed for default ***unless the Court sees fit to adjourn the hearing to give the appellant further time to appear.***

Dismissal of appeal for appellant's default or for non-service of notice through failure to deposit costs.

(2) Where the appellant ***appears*** and the respondent does not ***appear,*** the appeal shall be heard *ex parte*.

[557.] (3) Where on any such day as aforesaid it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed by the Court, the sum required to defray the cost of issuing the notice, the Court may order that the appeal be dismissed:

Provided that no such order shall be made although the notice has not been served upon the respondent if on any such day the respondent appears ***when the appeal is called on for hearing.***

Amended by VII of 1888, s. 47 (3).] 558. Where an appeal is dismissed under section 551, sub-section (2), or section 556, the appellant ***or, if he is dead, his legal representative*** may apply for the re-admission of the appeal to the Court which made the order of dismissal ***or to the Court to which that class of business to which the appeal belongs has been transferred;*** and, where it is shown to the satisfaction of the Court that ***the appellant*** was prevented by any sufficient cause from ***appearing*** when the appeal was called on for hearing or from depositing the sum so required, the Court may re-admit the appeal on such terms as to costs or otherwise as it thinks fit.

Re-admission of appeal dismissed for default.

559. Where it appears to the Court at ***or before*** the hearing that any person who was a party to the suit in the Court from whose decree the appeal is preferred, ***or, if he is dead, his legal representative,*** has not been made a party to the appeal, ***and*** is interested in the result of the appeal, the Court may direct that such person ***or his legal representative*** be made a respondent and that such notice (if any) as it thinks necessary be given to ***such respondent.***

Power to adjourn hearing, and direct persons appearing interested to be made respondents.

560. When an appeal is heard *ex parte* and judgment is delivered against the respondent, he ***or, if he is dead, his legal representative*** may apply ***for a re-hearing of*** the appeal; and, if he shows to the satisfaction of the Court that the notice was not duly served or that ***the respondent*** was prevented by sufficient cause from attending when the appeal was called on for hearing, the Court may re-hear the appeal on such terms as to costs or otherwise as it thinks fit.

Re-hearing on application of respondent against whom *ex parte* decree made.

561. (1) Any respondent, though he may not have appealed from any part of the decree, may upon the hearing not only support the decree on any of the grounds decided against him in the Court below, but take any objection to the decree which he could have taken by way of appeal, provided he has filed the objection in the Appellate Court within one month from the date of the service on him or his pleader under section 553 of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may think fit to allow. [Amended by VII of 1888, s. 48.]

Objection by respondent.

(2) Such objection shall have the same effect as a memorandum of appeal in a cross-appeal so as to enable the Court to pronounce a final judgment both on the appeal and the objection; and it shall be liable to the same court-fees, and the provisions of section 541, sub-section (1), and section 541A shall, so far as they are applicable, be deemed to apply thereto, as if it were a memorandum of appeal.

(3) Unless the respondent files with the objection a written acknowledgment from the ***other party or parties to the appeal or his or their pleader or pleaders*** of having received a copy ***or copies of the objection,*** the Appellate Court shall cause such copy ***or copies*** to be served, as soon as may be after the filing of the objection, on ***such party or parties or such pleader or pleaders,*** at the expense of the respondent.

(4) Where, in any case in which any respondent has under this section filed a notice of objection, the original appeal is stayed, or discontinued or dismissed, the objection so filed may nevertheless be proceeded with as *if* the memorandum of objection were a memorandum of appeal from the decree or any part thereof.

(5) The right of a respondent to take objections under this section shall ordinarily be limited to matters in controversy as between him and the appellant; but, where such matters cannot be completely deter-

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.—Chapter XLIII.—Of Appeals from original Decrees.—Sections 562, 564—568.)

mined without opening up questions arising between the objector and any co-respondent or any party to the suit, not being a party to the appeal, the Court may, on such terms as to notice, costs or otherwise as it thinks fit, allow objections to be taken on such questions also, and, in such case, shall adjudicate thereon, and may, for this purpose, direct any such party to be made a respondent to the appeal.

[Amended by VII of 1888, s. 49 (1) and (2).]

562. Where the Court from whose decree an appeal is preferred,—

Remand of case by Appellate Court.

(*a*) has disposed of the suit upon ***a point or issue, the determination of which has precluded the necessity for determining other points or issues in the suit, and such other points or issues have been left undetermined***, or

(*b*) has committed any error, omission or irregularity by reason of which, in the opinion of the Appellate Court, there has ***not*** been ***a proper trial*** or ***an effectual and complete*** adjudication of the suit as contemplated by law, and the party complaining of such error, omission or irregularity has been materially prejudiced thereby,

and the decree is reversed in appeal, the Appellate Court may, if it thinks fit, by order remand the case, and may further direct what issue or issues shall be tried in the case so remanded, ***and*** shall send a copy of ***its judgment and*** order to the Court from whose decree the appeal is preferred, with directions to re-admit the suit under its original number in the register of civil suits and proceed to determine the suit; ***and the evidence, if any, recorded during the original trial shall, subject to all just exceptions, be evidence during the trial after remand.***

564. The Appellate Court shall not remand a case for a second hearing or adjudication save as provided in section 562; and any remand ordered in contravention of this section shall, if questioned in appeal under section 588, clause (***25***), be deemed to be void; but, where no such appeal has been preferred, such remand shall be deemed to be an irregularity only and shall not vitiate any proceedings taken thereon unless it has substantially affected the decision on the merits of the suit and the party complaining of the irregularity has been materially prejudiced thereby.

Restriction on remands.

[Amended by VII of 1888, s. 51.]

565. ***(1)*** Where the evidence upon the record is sufficient to enable the Appellate Court to ***determine the suit, it*** shall, after, if necessary, resettling the issues, finally determine the ***suit*** notwithstanding that the judgment of the Court against whose decree the appeal is preferred has proceeded wholly upon some ground other than that on which the Appellate Court proceeds:

Duty of Appellate Court where evidence on record sufficient.

Provided that, where the Court from whose decree the appeal is preferred has not recorded its finding or findings on any issue or issues, the determination of which are, in the opinion of the Appellate Court, necessary for the proper adjudication of the suit, the Appellate Court may, if it thinks fit, before determining such issue or issues, direct the Lower Court to record its finding or findings thereon.

(***2***) ***On receiving a direction of the nature specified in the proviso to sub-section (1), the Court from whose decree the appeal is preferred shall, after hearing the parties if necessary, submit its finding or findings, with the reasons therefor, to the Appellate Court.***

566. (***1***) Where the evidence upon the record is not sufficient to enable the Appellate Court to ***determine the suit and*** the Court from whose decree the appeal is preferred has omitted to frame or try any issue ***or issues,*** or to determine any question ***or questions*** of fact, which ***is or are, in the opinion of*** the Appellate Court, ***necessary for the proper adjudication of*** the suit, the Appellate Court may, if necessary, frame an issue or issues and refer the same for tr al to the Court from whose decree the appeal is preferred, and in such case shall direct such Court to take the additional evidence required. [Amended by VII of 1888, s. 52 (1) and (2).]

Framing of issues by Appellate Court and reference for trial to Court below.

(***2***) Such Court shall proceed to try such ***issue or*** issues, and shall ***submit*** to the Appellate Court its finding ***or findings*** thereon together with ***its reasons therefor and*** the evidence ***taken.***

(***3***) Such finding ***or findings, reasons*** and evidence shall ***form*** part of the record of the suit; and either party may, within a time to be fixed by the Appellate Court, present a memorandum of objections to the finding. [567.]

(***4***) After the expiration of the period so fixed the Appellate Court shall proceed to determine the appeal.

568. (***1***) The parties to an appeal shall not be entitled to ***adduce*** additional evidence, whether oral or documentary, in the Appellate Court: [Amended by XII of 1891.]

Production of additional evidence in Appellate Court.

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.—Chapter XLIII.—Of Appeals from original Decrees.—Sections 571, 575—578.)

Provided that,—

(*a*) if the Court from whose decree the appeal is preferred ***has*** refused to admit evidence which ought to have been admitted, or

(*b*) if the Appellate Court requires any document to be produced or any witness to be examined to enable it to ***determine the suit,*** or

(*c*) for any other substantial cause,

the Appellate Court may allow such evidence to be ***adduced***, or document to be received, or witness to be examined.

(*2*) Where additional evidence is admitted by an Appellate Court, the Court shall record **or cause to be recorded** the reason for such admission.

[569.] (*3*) Where additional evidence is allowed to be ***adduced***, the Appellate Court may either take such evidence, or direct the Court from whose decree the appeal is preferred or any other subordinate Court to take such evidence and to ***submit*** it when taken to the Appellate Court.

[570.] (*4*) Where additional evidence is directed or allowed to be taken, the Appellate Court shall specify the ***point or*** points to which the evidence is to be confined, and record **or cause to be recorded** on its proceedings the ***point or*** points so specified.

Judgment in appeal.

571. (*1*) The Appellate Court, after hearing the parties or their pleaders and referring, if **necessary**, to any part of the proceedings, whether on appeal or in the Court which passed the decree appealed from, shall proceed to judgment.

Judgment in appeal.

[572 to 574.] (*2*) The judgment **of the Appellate Court shall be *reduced to writing*** and shall be **delivered by the Judge** in open Court **either immediately after the termination of the hearing** or at some **subsequent time of which notice has been given, orally or otherwise, as the Court may direct,** to the parties or their pleaders.

(*3*) The provisions of section 198, sub-section (*2*), and of sections 199 to 202 shall, so far as they are applicable, be deemed to apply to every such judgment.

(*4*) **Every such** judgment shall **contain—**

(*a*) the points for determination;

(*b*) the decision thereon;

(*c*) the reasons for such decision; and,

(*d*) where the decree appealed from is reversed or varied, the relief to which the appellant is entitled.

575. (*1*) Where an appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

Decision where appeal heard by two or more judges.

(*2*) Where there is no such majority concurring in a decision varying or reversing the decree appealed from, such decree shall be affirmed:

Provided that, if the Bench hearing the appeal is composed of two Judges belonging to a Court consisting of more than two Judges and the Judges composing the Bench differ in opinion on a point of law, the **hearing of the appeal shall be adjourned without delivery of judgment, and the appeal shall be heard and decided by a Bench consisting of the said Judges and** one or more of the other Judges of the same Court.

(*3*) Where ***upon such re-hearing*** there is no such majority concurring in a decision varying or reversing the decree appealed from, such decree shall be affirmed.

(*4*) The High Court may make rules consistent with this Code ***for the constitution of Benches under sub-section (2).***

576. (*1*) Where an appeal is heard by a Bench of two or more Judges, **the Judges concurring in the decision may deliver and sign separate judgments, or any one of them may deliver the judgment of the Court, which shall be signed by him and by the others concurring therein.**

Concurring and dissentient judgments.

(*2*) Any Judge dissenting from the decision of the Court shall deliver and sign, in the manner **hereinbefore prescribed for the delivery, contents and signature of an appellate judgment, a statement of** the decision or order which in his opinion should be given or made on the appeal, **together with** his reasons for such opinion.

577. The Appellate Court may affirm, vary or reverse the decree from which the appeal is preferred, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order to be made in appeal, may pass a decree or make an order accordingly.

What appellate judgment may direct.

578. No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal, on account of any error, defect or irregularity (whether in the decision or in any order made in the suit, or otherwise) not affecting the merits of the case or the jurisdiction of the Court.

No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.—Chapter XLIII.—Of Appeals from original Decrees.—Sections 578A, 579, 579A, 579B, 580—582.)

[New.] [VII of 1887, s. 11 (1), (2), (3), (4).]

Procedure where objection is taken on appeal or revision that suit or appeal was not properly valued for purpose of jurisdiction.

578A. (*1*) Notwithstanding anything in section 578, an objection that, by reason of the over-valuation or under-valuation of a suit or appeal, ***the*** Court of first instance or Lower Appellate Court had no jurisdiction with respect to ***such*** suit or appeal, shall not be entertained by an Appellate Court unless the objection was taken—

(*a*) in the Court of first instance at or before the ***first*** hearing or, where issues were ***settled, at or before such settlement, or***

(*b*) in the Lower Appellate Court in the memorandum of appeal to that Court,

as the case may be.

(*2*) Where the objection was taken in the manner referred to in sub-section (*1*), the Appellate Court, ***if*** it remands the suit or appeal, or frames and refers ***an issue or*** issues for trial, or requires additional evidence to be taken, shall direct its order to a Court competent to entertain the suit or appeal.

(3) Save as otherwise provided in sub-section (2), the Appellate Court shall ***deal with*** the appeal as if there had been no defect of jurisdiction in the Court of first instance or lower Appellate Court.

Preparation of decree in appeal.

579. (*1*) The decree of the Appellate Court shall be drawn up, dated and signed as nearly as may be in the manner prescribed by sections 205 and 205A for drawing up, dating and signing decrees in suits.

(*2*) The decree of the Appellate Court shall contain—

(*a*) the number of the appeal;

(*b*) the names and descriptions of the parties;

(*c*) a clear specification of the relief granted or other adjudication made; and

(*d*) the amount of the costs incurred in the appeal and the parties by whom, and the proportions in which, they are to be borne.

[New.]

Effect and construction of appellate decree.

579A. (*1*) The decree of the Appellate Court shall, in every case, be deemed to supersede the decree appealed from and to be the sole decree capable of execution; and the provisions of sections 207 to 216 with regard to the form of particular decrees shall, so far as they are applicable, be deemed to apply thereto.

(*2*) Notwithstanding anything in sub-section (*1*), where the decree of the Appellate Court merely affirms and by reference incorporates the decree appealed from, and the decree appealed from complies with the provisions of this Code in regard to the form and contents of decrees, it shall be sufficient if the decree of the Appellate Court contains a clear specification of such affirmance and incorporation.

(*3*) Where and in so far as the decree of the Appellate Court affirms and incorporates the decree appealed from, the decree appealed from may be referred to for the purpose of ascertaining the precise adjudication expressed in the decree of the Appellate Court.

(4) For all purposes relating to the execution of decrees, the decree of the Appellate Court shall be deemed to be the decree of the Court of first instance which passed the decree superseded by the decree of such Appellate Court or by the decree of any Court of intermediate appeal.

[New.]

Amendment of appellate decree.

579B. ***The provisions of section 206A shall, so far as they are applicable, be deemed to apply to the decree of the Appellate Court.***

Copies of judgment and decree to be furnished to parties.

580. Certified copies of the judgment and decree in appeal shall be furnished to the parties on application to the Appellate Court and at their expense.

Certified copy of decree to be sent to lower Court.

581. A copy of the judgment and of the decree, certified by the Appellate Court or by such officer as it may appoint in this behalf, shall be sent to the Court which passed the decree appealed from, and shall form part of the record of the suit, and an entry of the judgment of the Appellate Court shall be made in the register of civil suits.

[Amended by VII of 1888, s. 53.]

Appellate Court to have same powers as Courts of original jurisdiction.

582. (*1*) The Appellate Court shall have, in appeals under this Chapter, the same powers, and shall perform as nearly as may be the same duties, as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted under Chapter VI; and, in Chapter XXII, so far as may be, the word "plaintiff" shall be held to include a plaintiff-appellant or defendant-appellant, the word "defendant" a plaintiff-respondent or defendant-respondent, and the word "suit" an appeal, in proceedings arising out of the death, marriage or insolvency of parties to an appeal.

(*2*) The provisions hereinbefore contained shall, so far as they are applicable, be deemed to apply to appeals under this Chapter.

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.—Chapter XLIII.—Of Appeal from Original Decrees.—Section 583. Chapter XLIV.—Of Appeals from Appellate Decrees.—Sections 584, 585, 587. Chapter XLV.—Of Appeals from Orders.—Section 588.)

583. (*1*) No suit, other than a suit ***a right to which is expressly given or expressly sav[?]*** by Chapter XX, shall be maintained for the [r]ecovery of any benefit, by way of restitution or otherwise, to which any party may be entitled under a decree passed in an appeal under this Chapter.

Execution of decree of Appellate Court.

(*2*) Where any party so entitled desires to obtain execution of such a decree, he shall apply to the Court ***of first instance*** or, if such Court has ceased to exist, to the Court to which that class of business to which the decree belongs has been transferred.

(*3*) On receiving an application of the nature referred to in sub-section (*2*), such Court shall proceed to execute the decree passed in appeal according to the provisions relating to the execution of decrees in suits.

(*4*) Where and in so far as the decree of the Appellate Court sets aside the decree appealed from, the Court executing the decree of the Appellate Court shall, whether restitution has or has not been directed in such decree, ***on the application of the party desiring such restitution,*** cause such restitution to be made as will, so far as may be, place the parties in the position which they would have occupied but for the decree appealed from or such part thereof as has been set aside; and, for this purpose, the Court may make any orders, including orders for the refund of costs and for the payment of interest, damages, compensation and mesne profits, which are properly consequential to the adjudication expressed in the appellate decree.

(*5*) In exercising any of its powers under sub-section (*4*), the Court shall not be bound by the pecuniary limits of its jurisdiction over suits.

CHAPTER XLIV.

OF APPEALS FROM APPELLATE DECREES.

584. (*1*) Save where otherwise provided by this Code or by any other law, from every decree passed in appeal by any Court subordinate to a High Court an appeal shall lie to the High Court on any of the following grounds, namely:—

Second appeals to High Court.

(*a*) the decision being contrary to some specified law or usage having the force of law;

(*b*) the decision having failed to determine some material issue of law or usage having the force of law;

(*c*) a substantial error or defect in the procedure as prescribed by this Code or by any other law which may possibly have produced error or defect in the decision of the case upon the merits.

[586] (*2*) No such second appeal shall lie in any suit of the nature cognizable by a Court of Small Causes, unless the amount or value of the subject-matter ***of such second appeal*** exceeds ***five hundred*** rupees.

(3) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare that in suits not of the nature cognizable by a Court of Small Causes in which—

(a) the amount or value of the subject-matter of the original suit does not exceed one hundred rupees, or

(b) the decree appealed from does not involve a claim to or question respecting property exceeding such amount or value,

or in any class of such suits, a second appeal shall not lie, and may in any such notification fix the limit of value at any amount not exceeding one hundred rupees.

(*4*) ***The provisions of section 23 of the General Clauses Act, 1877, relating to the publication of rules or by-laws subject to the condition of previous publication, shall, so far as they are applicable, be deemed to apply to the publication of every notification under sub-section*** (*3*). X of 1897.

(*5*) An appeal may lie under this section from an appellate decree passed *ex parte*.

(*6*) No second appeal shall lie save as provided by ***this*** section. [585.]

585. ***Where an appeal from an appellate decree is preferred under section 584,*** the High Court may, ***if*** the evidence on the record is sufficient to enable it to ***dispose of the appeal,*** determine any issue of fact necessary for the proper adjudication on any of the grounds specified in the said section but omitted to be determined by the lower Court either of first instance or of appeal.

Power of High Court to determine issues of fact.

587. The provisions of Chapter XLIII shall, so far as they are applicable, be deemed to apply to appeals under this Chapter and to the execution of decrees passed in such appeals.

Provisions as to second appeals.

CHAPTER XLV.

OF APPEALS FROM ORDERS.

588. (*1*) An appeal shall lie from each of the following orders, and, save as otherwise expressly provided by this Code, from no other order ***made thereunder***, namely:— [Amended by VII of 1888, s. 55 (1), (2).]

Orders appealable.

(1) an order returning a plaint to be presented to the proper Court;

(2) an order rejecting an application under section ***99 or section*** 103 (in a case open to appeal) for an order setting aside the dismissal of a suit;

The Code of Civil Procedure, 190 .

Part VII.—Of Appeals.—Chapter XLV.—Of Appeals from Orders.—Sections 589-591. Chapter XLVI.—Of Pauper Appeals.—Section 592.)

(3) an order rejecting an application under section 108, sub-section (*1*) or sub-section (*2*), (***in a case open to appeal***) for an order set***ting*** aside a decree passed *ex parte* ;

(4) an order under section 136 dismissing a suit for failure to comply with an order under Chapter XI;

(5) an order under section 245, rejecting an application for the execution of a decree;

(6) an order under section 168, for the attachment of property;

(7) an order under section 261, sub-sections (*1*) to (*5*), as to an objection to the draft ***of an instrument*** or endorsement;

(8) an order under section 293;

(9) an order under section 294, section 313 or section 312, for confirming, setting aside, or refusing to set aside, a sale of immoveable property;

IV of 1882. (10) an order under section 305 ***postponing or refusing to postpone a sale, or under section 87 or section 93 of the Transfer of Property Act, 1882, extending or refusing to extend the time for the payment of mortgage money***;

(11) an order under section 310A;

(12) an order under section 366, ***clause (b),*** section 367 or section 368;

(13) an order under section 371, refusing to set aside the abatement or dismissal of a suit;

(14) an order under section 372;

(15) an order under section 381, dismissing a suit for the failure of the plaintiff to furnish security;

(16) an order under section 440 removing a plaint from the list of pending cases;

(17) an order under section 458, section 454 or section 455, directing a guardian for the suit ***or a*** next friend to pay costs;

(18) an order in an interpleader-suit under section 473, ***sub-section (1),*** clause (*a*) ***or*** clause (*b*), or ***sub-section (2),*** clause (*b*), section 475 or section 476;

(19) an order under section 483, sub-section (4) or sub-section (*5*), ***section 491, sub-section (1), in a case open to appeal,*** section 492, section 493, section 496, section 497 or section 503;

(20) an order under section 514, superseding an arbitration;

(21) an order under section 518, modifying an award;

(22) an order rejecting an appeal as time-barred or under section 543A or under section 549;

(23) an order under section 543F returning a memorandum of appeal to be presented to the proper Court;

(24) an order of refusal under section 558 to re-admit, or under section 560 to re-hear, an appeal;

(25) an order under section 562, remanding a case; and

(26) an order under any of the provisions of this Code, imposing a fine, or directing the arrest or detention ***in the civil*** prison of any person, except where such detention is in execution of a decree.

(2) Subject to the provisions of Chapter XLVII, every order ***made*** in appeal under this section shall be final ***and conclusive.***

589. What Courts to hear appeals from orders. Where an appeal from an order lies under this Chapter it shall lie to the Court to which an appeal would lie from the decree in the suit in relation to which such order was made, or, where such order is ***made*** by a Court (not being a High Court) in the exercise of appellate jurisdiction, then to the High Court. [Amended ... VII of ... s. 56, and ... of 1888, s.

590. Procedure in appeals from orders. The procedure prescribed by Chapter XLIII shall, so far as it is applicable, be deemed to apply to appeals from orders under this Code or under any special or local law for the time being in force in which a different procedure is not prescribed.

591. No other appeal from orders; but error therein may be set forth in memorandum of appeal against decree. Save as provided by this Chapter and by sections 598, sub-section (*4*), and 629, no appeal shall lie from any order ***made*** by a Court in the exercise of its original or appellate jurisdiction; but, where a decree is appealed from, any error, defect or irregularity in any such order, which has affected the decision of the case ***on the merits,*** may be set forth as a ground of objection in the memorandum of appeal.

CHAPTER XLVI.

OF PAUPER APPEALS.

592. ***(1)*** Who may appeal as pauper. Any person entitled, under this Code or under any other enactment or rule of law for the time being in force, to prefer an appeal, who is unable to pay the

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.—Chapter XLVII.—Of Appeals to the King in Council.—Sections 594-598.)

fee required for the petition of appeal, may, on presenting an application accompanied by a memorandum of appeal, be allowed to appeal as a pauper, subject to the provisions of Chapters XXVI, XLIII, XLIV and XLV, in so far as they are applicable:

Provided that the Court shall reject the application, unless, upon a perusal thereof and of the judgment and the decree appealed from and, if the Court, in its discretion, thinks it necessary to send for the record, upon reference to such record or any part thereof, it sees cause to think that the decree appealed from is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust.

[593.] (2) The inquiry as to the inability of the applicant to pay such fee as aforesaid may be made either by the Appellate Court or, under the orders of the Appellate Court, by the Court which passed the decree appealed from:

Provided that, if the applicant was permitted to institute *or* continue the suit as a pauper in the Court which passed the decree appealed from, no further inquiry in respect of his inability to pay such fee as aforesaid shall be necessary, unless the Appellate Court sees cause to direct such inquiry.

CHAPTER XLVII.

OF APPEALS TO THE KING IN COUNCIL.

"Decree" defined for purposes of Chapter.

594. In this Chapter, unless there is anything repugnant in the subject or context, the expression "decree" includes also a judgment and an order.

When appeals lie to King in Council.

595. Subject to such rules as may, from time to time, be made by His Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained, an appeal shall lie to His Majesty in Council—

(*a*) from every final decree passed on appeal by a High Court or by any other Court of final appellate jurisdiction;

(*b*) from every final decree passed by a High Court in the exercise of original civil jurisdiction; and

(*c*) from every decree, where the case is, as hereinafter provided, certified to be a fit one for appeal to His Majesty in Council.

Bar of certain appeals.

596. (*1*) Notwithstanding anything in section 595, no appeal shall lie to His Majesty in Council from any such decree as is referred to in clause (*a*) or clause (*b*) of that section, unless—

(*a*) the amount or value of the subject-matter of the suit in the Court of first instance is ten thousand rupees or upwards, and the amount or value of the subject-matter in dispute on appeal to His Majesty in Council is the same sum or upwards; or

(*b*) the decree involves, directly or indirectly, some claim to, or question respecting, property of the like amount or value; and,

(*c*) where the decree appealed from affirms the decision of the Court immediately below the Court passing such decree, the appeal involves some substantial question of law.

(*2*) For the purposes of the pecuniary valuation referred to in this section, suits involving substantially the same questions for determination and decided by the same judgment may be consolidated; but suits decided by separate judgments shall not be consolidated, notwithstanding that they involve substantially the same questions for determination.

Bar of certain other appeals.

597. Notwithstanding anything in section 595, no appeal shall lie to His Majesty in Council—

(*a*) from the judgment of one Judge of a High Court established under the Indian High Courts Act, 1861, or of one Judge of a Division Court, or of two or more Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, where such Judges are equally divided in opinion and do not amount in number to a majority of the whole of the Judges of the High Court at the time being; or — 24 & 25 Vict., c. 104.

(*b*) from any decree which, under sub-section (*2*) ***of section 584 or by virtue of a notification made under*** sub-section (*3*) ***of the said section,*** is final ***and conclusive.***

Application to Court whose decree complained of.

598. (*1*) Whoever desires to appeal under this Chapter to His Majesty in Council, shall apply by petition to the Court whose decree is complained of.

(*2*) Every such petition shall state the grounds of appeal, and pray for a certificate, either that, as regards amount or value and nature, the case fulfils the requirements of section 596, or that it is otherwise a fit one for appeal to His Majesty in Council. [600.]

(*3*) Upon receipt of such petition, the Cour may direct notice to be served on the opposite

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.—Chapter XLVII.—Of Appeals to the King in Council.—Sections 603-605, 607, 608.)

party to show cause why the said certificate should not be granted.

[601 as amended by VII of 1888, s. 57.] (*4*) Where such certificate is refused, the petition shall be dismissed:

Provided that, if the decree complained of is a final decree passed by a Court other than a High Court, an appeal shall lie from the order refusing the certificate to the High Court to which the former Court is subordinate.

[602.] (*5*) Where such certificate is granted, the applicant shall, within six months from the date of the decree complained of, or within six weeks from the date of the grant of the certificate, whichever is the later date,—

(*a*) furnish security for the costs of the respondent, and

(*b*) deposit the amount required to defray the expense of translating, transcribing, indexing and transmitting to His Majesty in Council a correct copy of the whole record of the suit, except—

(i) formal documents directed to be excluded by any order of His Majesty in Council in force for the time being;

(ii) papers which the parties agree to exclude;

(iii) accounts or portions of accounts which the officer empowered by the Court for that purpose considers unnecessary, and which the parties have not specifically asked to be included; and

(iv) such other documents as the High Court may direct to be excluded.

(*6*) Where the applicant prefers to print in India the copy of so much of the record as is required by sub-section (*5*), he shall also, within the time mentioned in the said sub-section, deposit the amount required to defray the expense of printing such copy.

(*7*) The period fixed by sub-section (*5*) for compliance with the requirements therein referred to may, from time to time, be extended by the Court, even though the original period has expired; but, if such requirements are not complied with within the period so fixed or extended, the appeal shall be removed from the list of pending cases.

603. Where the security and deposit required by section 598, sub-sections (*5*) and (*6*), have been furnished and made to the satisfaction of the Court, the Court may—

Admission of appeal and procedure thereon.

(*a*) declare the appeal admitted, and

(*b*) give notice thereof to the respondent,

and shall then—

(*c*) transmit to His Majesty in Council under the seal of the Court, a correct copy of so much of the said record as is required by section 598, sub-section (*5*), and

(*d*) give to either party one or more authenticated copies of any of the papers in the suit on his applying therefor and paying the reasonable expenses incurred in preparing them.

604. At any time before the admission of an appeal to His Majesty in Council, the Court may, upon cause shown, revoke the acceptance of any security furnished under section 598, sub-section (*5*), and make further directions thereon.

Revocation of acceptance of security.

605. (*1*) Where at any time after the admission of an appeal to His Majesty in Council, but before the transmission of the copy of so much of the record as is required by section 598, sub-section (*5*),—

Power to order further security or payment.

(*a*) such security appears inadequate,

(*b*) further payment is required for the purpose of translating, transcribing, printing, indexing or transmitting the copy of so much of the record as is so required,

the Court may order the appellant to furnish, within a time to be fixed by the Court, other and sufficient security, or to make, within like time, the required payment.

(*2*) Where the appellant fails to comply with such order, the proceedings shall be stayed, and the appeal shall not proceed without an order in this behalf of His Majesty in Council, and in the meantime the execution of the decree appealed from shall not be stayed.

607. When the copy of so much of the record as is required by section 598, sub-section (*5*), has been transmitted to His Majesty in Council, the appellant may obtain a refund of the balance (if any) of the amount which he has deposited under sub-sections (*5*) and (*6*) of the said section.

Refund of balance of deposit.

608. (*1*) Notwithstanding the admission of an appeal to His Majesty in Council, the decree appealed from shall, unless the Court otherwise directs, be unconditionally executed.

Powers of Court pending appeal.

(*2*) The Court may, if it thinks fit, on special cause shown by any party interested in the suit or otherwise appearing to the Court,—

(*a*) impound any moveable property in dispute or any part thereof; or

(*b*) allow the decree appealed from to be executed, taking such security from

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.—Chapter XLVII.—Of Appeals to the King in Council.—Sections 609-612.)

the respondent as it thinks fit for the due performance of any order which His Majesty in Council may make on the appeal; or

(*c*) stay the execution of the decree appealed from, taking such security from the appellant as it thinks fit for the due performance of the decree appealed from, or of any order which His Majesty in Council may make on the appeal; or

(*d*) place any party seeking the assistance of the Court under such conditions, or give such other direction respecting the subject-matter of the appeal, as it thinks fit.

Increase of security found inadequate.

609. (*1*) Where at any time during the pendency of an appeal to His Majesty in Council the security furnished by either party appears inadequate, the Court may, on the application of the other party, require further security.

(*2*) In default of such further security being furnished as required by the Court,—

(*a*) if the original security was furnished by the appellant, the Court may, on the application of the respondent, issue execution of the decree appealed from as if the appellant had furnished no such security; and,

(*b*) if the original security was furnished by the respondent, the Court shall, so far as may be practicable, stay the further execution of the decree and restore the parties to the position in which they respectively were when the security which appears inadequate was furnished, or give such direction respecting the subject-matter of the appeal as it thinks fit.

[Amended by VII of 1888, s. 58.]

Execution of orders of King in Council.

610. (*1*) Whoever desires to obtain the execution of any order of His Majesty in Council, shall apply by petition, accompanied by a certified copy of the decree or order passed or made in appeal and sought to be executed, to the Court from which the appeal to His Majesty in Council was preferred.

(*2*) Such Court shall transmit the order of His Majesty in Council to the Court which passed the first decree appealed from, or to such other Court as His Majesty in Council by such order may direct, and shall, upon the application of either party, give such directions as may be required for the execution of the same; and the Court to which the said order is so transmitted shall execute it accordingly in the manner and according to the provisions relating to the execution of its original decrees.

(3) Where any person has become liable as surety for the performance of a decree from which an appeal to His Majesty in Council has been preferred, or of any order which His Majesty in Council may make on the appeal, the decree or order may be executed against him, to the extent to which he has rendered himself liable, ***as if the decree or order had been passed or made against him personally:*** [Cf. 252

Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety.

(*4*) Where any moneys expressed to be payable in British currency are payable in India under such order, the amount so payable shall be estimated according to the rate of exchange for the time being fixed, at the date of the making of the order, by the Secretary of State for India in Council, with the concurrence of the Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments.

Appeal against order relating to execution of order of King in Council.

611. ***Where*** an order of His Majesty in Council ***is transmitted to a Court under section*** 610 ***for execution,*** an appeal shall lie from every order made by ***such*** Court relating to such execution in the same manner and subject to the same ***conditions*** as in the case of an order of such Court relating to the execution of its own decrees.

Power for High Court to make rules.

612. (*1*) The High Court may, from time to time, make rules to regulate—

(*a*) the service of notices under section 598, sub-section (*3*);

(*b*) the refusal or grant of certificates, under section 598, sub-sections (*4*) and (*5*), by Courts of final appellate jurisdiction subordinate to the High Court;

(*c*) the amount and nature of the security required under section 598, sub-section (*5*), section 605 and section 609;

(*d*) the testing of such security;

(*e*) the estimate of the cost of transcribing the record;

(*f*) the preparation, examination and certifying of such transcript;

(*g*) the revision and authentication of translations;

(*h*) the preparation of indices to transcripts of records, and of lists of the papers not included therein;

(*i*) the recovery of costs incurred in British India in connection with appeals to His Majesty in Council; and

The Code of Civil Procedure, 190 .

(Part VII.—Of Appeals.—Chapter XLVII.—Of Appeals to the King in Council.—Section 616. Part VIII.—Chapter XLVIII.—Of References to the High Court.—Section 617-621, 646A-646B.)

(j) all other matters connected with the enforcement of this Chapter.

(2) All such rules shall be published in the local official Gazette, and shall thereupon have effect as if enacted in this Code.

Saving of His Majesty's pleasure, and of rules for conduct of business before Judicial Committee.

616. (1) Nothing herein contained shall be deemed—

(a) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever, or

(b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to His Majesty in Council or their conduct before the said Judicial Committee.

(2) Nothing in this Chapter shall be deemed to apply to any matter of criminal or admiralty or vice-admiralty jurisdiction, or to appeals from the orders and decrees of Prize Courts.

PART VIII.

CHAPTER XLVIII.

OF REFERENCES TO THE HIGH COURT.

Reference of question to High Court.

617. Where before or on the hearing of a suit or an appeal in which the decree is final, or where in the execution of any such decree, any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits, arises, on which the Court trying the suit or appeal, or executing the decree, entertains reasonable doubt, the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement with its own opinion on the point for the decision of the High Court.

Court may pass decree contingent upon opinion of High Court.

618. The Court making a reference under section 617 may either stay the proceedings or proceed in the case notwithstanding such reference, and may pass a decree or make an order contingent upon the opinion of the High Court on the point referred:

Provided that no execution shall be issued, property sold or person detained in the civil prison in any case in which such a reference is made until the receipt of a copy of the judgment of the High Court upon the reference.

Judgment of High Court to be transmitted, and case disposed of accordingly.

619. *After giving* the parties to the case *an opportunity of being heard* in person or by their respective pleaders *and hearing them if they appear and desire to be heard,* the High Court shall decide the point so referred, and shall transmit a copy of its judgment, under the signature of the Registrar, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision of the High Court.

Costs of reference to High Court.

620. The costs (if any) consequent on a reference for the opinion of the High Court made under section 617 shall be costs in the case.

Power to alter, *cancel or set aside* decree *or order* of Court making reference.

621. Where a reference is made to the High Court under section 617, the High Court may return the case for amendment, and may alter, cancel or set aside any decree or order which the Court making the reference has passed or made in the case out of which the reference arose, and make such order as it thinks fit.

Power to refer to High Court questions as to jurisdiction in small causes.

646A. (1) Where at any time before judgment a Court in which a suit has been instituted doubts whether the suit is cognizable by a Court of Small Causes or is not so cognizable, it may submit the record to the High Court with a statement of its reasons for the doubt as to the nature of the suit. [Added by VII of 1888, s. 60.]

(2) On receiving such record and statement, the High Court may order the Court either to proceed with the suit or to return the plaint for presentation to such other Court as it may in its order declare to be competent to take cognizance of the suit.

Power for District Court to submit for revision proceedings had under mistake as to jurisdiction in small causes.

646B. (1) Where a District Court is satisfied that a Court subordinate thereto has, by reason of erroneously holding a suit to be cognizable by a Court of Small Causes or not to be so cognizable, failed to [Added by VII of 1888, s. 60]

The Code of Civil Procedure, 190 .

(Part VIII.—Chapter XLIX.—Of Revision by the High Court.—Sections 622, 622A. Part IX.—Chapter L.—Of Review.—Section 623.)

exercise a jurisdiction vested in it by law, or ***assumed*** a jurisdiction not so vested, the District Court may, and, if required by a party, shall, submit the record to the High Court with a statement of its reasons for considering the opinion of the subordinate Court with respect to the nature of the suit to be erroneous.

(2) On receiving such record and statement, the High Court may ***make*** such order in the case as it thinks fit.

(3) With respect to any proceedings subsequent to decree in any case submitted to the High Court under this section, the High Court may make such order as in the circumstances appears to it to be just and proper.

(4) A Court subordinate to a District Court shall comply with any requisition which the District Court may make for any record or information for the purposes of this section.

CHAPTER XLIX.

OF REVISION BY THE HIGH COURT.

Power for High Court to call for record of case not appealable to High Court.

622. (*1*) The High Court may call for the record of any suit or other proceeding which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, ***and***, if the Court by which the suit or other proceeding was decided, appears—

(*a*) to have ***assumed*** a jurisdiction which ***is in excess of the limits, other than*** the territorial or pecuniary limits, of the jurisdiction vested in it by law, or

(*b*) to have failed to exercise a jurisdiction so vested, or,

(*c*) ***while acting*** in the exercise of its jurisdiction, ***to have contravened*** some express provision of law materially affecting the decision on the merits ***where such contravention has*** produced a serious miscarriage of justice,

the High Court may make such order as, in its opinion, should have been made by the Court which decided the suit or other proceeding.

(*2*) The provisions of section ***578A*** shall, so far as they are applicable, be deemed to apply to a ***High*** Court exercising ***the powers conferred by this*** section.

[New.]

Costs of proceeding under section 622.

622A. The High Court may order by whom the costs (if any) of any proceeding under section 622 shall be borne; and such costs shall be recoverable as though the order were a decree for the payment of money.

PART IX.

CHAPTER L.

OF REVIEW.

[New

Application for review of judgment.

623. (*1*) Subject to the same limitations as are hereinbefore imposed by section 540A with regard to the right to appeal from the decrees, or from any part of the decrees, of the Courts exercising original jurisdiction, any person who considers himself aggrieved—

(*a*) by a decree or order from which an appeal lies under this Code, but from which no appeal has been preferred,

(*b*) by a decree or order from which no appeal lies under this Code, or

(*c*) by a judgment on a reference from a Court of Small Causes,

and who,—

(*i*) from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree or order was passed or made, or

(*ii*) on account of some mistake or error apparent on the face of the record, or

(*iii*) for any other sufficient reason,

desires to obtain a review of the judgment delivered, decree passed or order made against him, may apply for review to the Court which delivered the judgment, passed the decree or made the order or to the Court (if any) to which that class of business to which the judgment, decree or order belongs, has been transferred.

(*2*) A party who is not appealing from a decree ***or order*** may apply for a review notwithstanding the pendency of an appeal by some other party, except where the ground of such appeal is common to the applicant and the appellant, or where, being a respondent, he is entitled to present to the Appellate Court the case on which he applies for the review.

(3) A party, who has applied for a review of a judgment, decree or order shall not be precluded thereby from presenting an appeal from such decree or from the decree or order founded upon such judgment.

(4) Where an application has been made for a review of a judgment, decree or order and an appeal from such decree or order or from the decree or order founded upon such judgment is pending, the Appellate Court shall, on the application of any party

The Code of Civil Procedure, 190 .

(Part IX.—Chapter L.—Of Review.—Sections 624-627, 629.)

to the appeal whose rights under the judgment, decree or order will be affected by the review, if granted, stay the hearing of the appeal until the application for review is decided; and, where and in so far as the judgment, decree or order is altered on review, any such party shall, notwithstanding anything in section 542, be entitled to urge and be heard in support of any objection arising upon such alteration to the extent to which his rights are affected thereby.

To whom application for review may be made.

624. (*1*) An application for the review of a judgment, decree or order—

(*a*) of the High Court, or

(*b*) of any other Court on the ground of—

(i) the discovery of such new and important matter or evidence as is referred to in section 623, or

(ii) of some clerical ***or arithmetical*** error apparent on the face of the decree,

may be made to the Court which delivered the judgment, passed the decree or made the order, or to the Court (if any) to which that class of business to which the judgment, decree or order belongs, has been transferred; but it need not be made to the Judge who delivered the judgment ***or made the order*** sought to be reviewed.

(*2*) An application for the review of a judgment, decree or order of a Court, other than a High Court, on *any* ground ***not specified in sub-section*** (*1*) shall be made to the Judge who delivered the judgment, ***passed the decree or made the order.***

Form of applications for review.

625. The provisions of this Code as to the form of preferring appeals shall, so far as they are applicable, be deemed to apply to applications for review.

(*2*) ***Every such application shall be accompanied by a copy of the judgment, decree or order of which a review is sought, unless the Court sees fit to dispense with such copy.***

Validation of certain applications for review.

[582A.] 625A. (*1*) Where an application for a review has been presented within the time allowed by the law of limitation for the time being in force, but is written upon paper insufficiently stamped, and the insufficiency of the stamp was caused by a mistake on the part of the applicant as to the amount of the requisite stamp, ***the Court shall, on his application, fix a period within which he shall supply such requisite stamp.***

(*2*) ***Where the applicant supplies the requisite stamp within the period fixed under sub-section*** (*1*) or within such further period as may from time to time be allowed by the Court, the application ***for review*** shall have the same effect and be as valid as if it had been properly stamped.

(*3*) ***Where the applicant fails to supply the requisite stamp as required by sub-section*** (*2*), the application ***for review*** shall be rejected.

Rejection and grant of application.

626. (*1*) Where it appears to the Court that there is not sufficient ground for a review, it shall reject the application. [Amended by VII of 1888, s. 59.]

(*2*) Where the Court is of opinion that an application for review should be granted, it shall grant the same, and the Judge shall record or cause to be recorded his reasons for such opinion:

Provided, first, that no such application shall be granted without previous notice to the opposite party, to enable him to appear and be heard in support of the judgment, decree or order a review of which is applied for;

Provided, secondly, that no such application shall be granted on the ground of discovery of new matter or evidence ***with respect to*** which the applicant alleges ***that it*** was not within his knowledge, or could not be adduced by him, when the judgment, decree or order was delivered, passed or made, without strict proof of such allegation; and

Provided, thirdly, that an application of the nature referred to in section 624, sub-section (*2*), to the Judge who delivered the judgment, ***passed the decree or made the order,*** may, if that Judge has ordered notice to issue under the first proviso to this sub-section, be disposed of by his successor.

(*3*) Where an application for review is heard by more than one Judge and the Court is equally divided, the application shall be rejected; and, where there is a majority, the decision shall be according to the opinion of the majority. [628.]

Hearing of review in Court consisting of two or more Judges.

627. Where the Judge or Judges, or any one of the Judges, who delivered the judgment, passed the decree or made the order a review of which is applied for, continues or continue attached to the Court at the time when the application for review is presented, and is not or are not precluded by absence or other cause, for a period of six months next after the application, from considering the judgment, decree or order to which the application refers, such Judge or Judges or any of them shall hear the application, and no other Judge or Judges of the Court shall hear the same.

Order of rejection final ***and conclusive***, subject to objections to admission of application for review.

629. (*1*) An order of the Court rejecting an application for review shall be final ***and conclusive;*** but, where such an application is admitted, the admission may be objected to on the ground that it was—

(*a*) in contravention of the provisions of section 624,

(*b*) in contravention of the provisions of section 626, sub-section (*1*) or sub-section (*2*), or

The Code of Civil Procedure, 190 .

(Part IX.—Chapter L.—Of Review.—Section 630. Part X.—Chapter LI.—Special Rules relating to Chartered High Courts.—Sections 631-638.)

(*c*) after the expiration of the period allowed by the law of limitation for the time being in force and without sufficient cause.

(2) Such objection may be made at once by an appeal from the order granting the application, or may be taken in any appeal from the final decree or order made in the suit.

(3) Where an application for review has been rejected in consequence of the failure of the applicant to appear, he may apply for an order to have the application restored to the list of pending cases, and, where it is shown to the satisfaction of the Court that he was prevented by any sufficient cause from appearing when such application was called on for hearing, the Court may order it to be so restored upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for hearing the same.

(4) No order shall be made under this section unless the applicant has served the opposite party with notice in writing of the latter application.

(5) No application to review an order made on review or on an application for a review shall be entertained.

Registry of application granted, and order for re-hearing.

630. When an application for review is admitted, a note thereof shall be made in the register of civil suits or register of appeals, as the case may be, and the Court may at once re-hear the case or make such order in regard to the re-hearing as it thinks fit.

PART X.

CHAPTER LI.

SPECIAL RULES RELATING TO CHARTERED HIGH COURTS.

Chapter to apply only to Chartered High Courts.

24 & 25 Vict., c. 104. Amended by XIII of 1895, s. 1.]

631. This Chapter shall apply only to High Courts which are or may hereafter be established under the Indian High Courts Act, 1861.

Application of Code to Chartered High Courts.

632. Save as provided by this Chapter and by section 652, the provisions of this Code shall be deemed to apply to such High Courts.

Chartered High Court to take evidence and record judgments, decrees and orders according to its own rules.

633. Every such High Court shall take evidence, deliver and record judgments and record decrees and orders, in such manner as it may, by rule, from time to time direct.

Power for Chartered High Court to order execution of decree before ascertainment of costs.

634. Where such a High Court considers it necessary that a decree passed in the exercise of its ordinary original civil jurisdiction should be executed before the amount of the costs incurred in the suit can be ascertained by taxation, it may order—

(*a*) that the decree shall be executed forthwith, except as to so much thereof as relates to the costs; and

(*b*) that the decree, as to so much thereof as relates to the costs, may be executed as soon as the amount of the costs is ascertained by taxation.

Saving of powers of Chartered High Courts in respect of addressing the Court and the admission of pleaders.

635. Nothing in this Code shall be deemed—

(*a*) to authorize any person on behalf of another to address such a High Court in the exercise of its ordinary original civil jurisdiction, or to examine witnesses, except where such High Court has, in the exercise of the power conferred by its Charter, authorized him so to do, or

(*b*) to interfere with the power of such a High Court to make rules concerning advocates, vakils and attorneys.

Who may serve process of High Court.

636. Notices to produce documents, summonses to witnesses, and other judicial processes, issued in the exercise of the ordinary or extraordinary original civil jurisdiction of such a High Court, and of its matrimonial, testamentary and intestate jurisdictions, except summonses to defendants issued under section 64, writs of execution and notices under section 553, may be served by the attorneys in the suits, or by persons employed by them, or by such other persons as such High Court may, by rule or order, from time to time direct.

Non-judicial and quasi-judicial acts capable of being done by Registrar of Chartered High Court.

637. (1) Any non-judicial or quasi-judicial act which this Code requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394, may be done by the Registrar of such a High Court or by such other officer of the Court as the Court may direct.

(2) Such a High Court may, by rule, from time to time declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

Provisions of Code not applicable to Chartered High Courts in original civil jurisdiction.

638. (1) The following provisions of this Code shall not be deemed to apply to such a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, namely:—

sections 16, 19, 17, 54, sub-section (2), clauses (*a*) and (*b*), 57, 119, 160, 182 to 185A, 187, 189

The Code of Civil Procedure, 190 .

Part X.—Chapter LI.—Special Rules relating to Chartered High Courts.—Section 639. Part XI.—Chapter LII.—Miscellaneous.—Sections 640-645.)

191, 192 (so far as relates to the manner of taking evidence), 198 to 206A, ***the proviso to section 220, sub-section (2),*** and so much of section 409 as relates to the making of a memorandum.

(2) Sections ***571 and*** 579 shall not apply to such a High Court in the exercise of its appellate jurisdiction.

Code not to affect Chartered High Courts in exercise of insolvent jurisdiction.

639. (*1*) Nothing in this Code shall be deemed to extend or apply to any Judge of such a High Court in the exercise of its jurisdiction under the Indian Insolvency Act, 1848.

11 & 12 Vict., c. 21.

(2) Such a High Court may from time to time frame forms for proceedings in insolvency and make rules as to the books, entries and accounts to be kept by its officers.

PART XI.

CHAPTER LII.

MISCELLANEOUS.

[Amended by VI of 1888, s. 6.]

Exemption of certain women from personal appearance.

640. ***Women,*** who according to the customs and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court :

Provided that nothing in this section shall be deemed to exempt such ***women*** from arrest in execution of civil process in any case in which the arrest of ***women*** is not prohibited by this Code.

Power for Local Government to exempt from personal appearance.

641. (*1*) The Local Government may, by notification in the local official Gazette, exempt from personal appearance in Court any person whose rank, in the opinion of such Government, entitles him to the privilege of exemption.

(*2*) The names and residences of all persons so exempted shall, from time to time, be forwarded to the High Court by the Local Government, and a list of such persons shall be kept in such Court, and a list of such persons as reside within the local limits of the jurisdiction of each Court subordinate to the High Court shall be kept in such subordinate Court.

(*3*) Where any person so exempted claims the privilege of such exemption and it is consequently necessary to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays the same.

Persons exempt from arrest under civil process.

642. (*1*) No Judge, Magistrate or other judicial officer shall be liable to arrest under civil process while going to, presiding in, or returning from, his Court.

(*2*) Save as provided by section 256 and section 337A, sub-section (5), where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, mukhtárs, revenue-agents and recognized agents, and their witnesses acting in obedience to summons, shall not be liable to arrest under civil process, other than process issued for a contempt of Court, during such period as is, or is in good faith believed to be, necessary for going to or attending such tribunal for the purpose of such matter, and for returning from such tribunal.

[Amended by VI of 1888, s. 7.]

Use of forms in third schedule.

644. Subject to the power conferred on the High Court by section 639 and by section 15 of the Indian High Courts Act, 1861, the forms set forth in the third schedule, with such variations as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

24 & 25 Vict., c. 104.

Language of subordinate Courts.

645. (*1*) The language which, *on* the commencement of this Code, is the language of any Court subordinate to a High Court, shall continue to be the language of such subordinate Court until the Local Government otherwise directs.

(2) The Local Government may declare what shall be the language of any such Court ***and in which character applications to and proceedings in such Court shall be written.***

(3) Where this Code requires or allows any judgment, decree or order delivered, passed or made by the Court, or any plaint, verification, memorandum, list, certificate, written statement, set-off, counter-claim, interrogatory, affidavit, account, notice, report or application presented, made, tendered, exhibited, given or submitted to or in the Court to be in writing, such writing may be English :

Provided that, if the opposite party or his pleader is unacquainted with English, a translation into the language of the Court shall, at his request, be supplied to him ; and the Court shall make such order as it thinks fit in respect of the payment of the costs of such translation, and any such order shall be capable of execution as if it were a decree.

The Code of Civil Procedure, 190 .

(Part XI.—Chapter LII.—Miscellaneous.—Sections 645A, 646-649A.)

645A. (*1*) In any admiralty or vice-admiralty cause of salvage, towage or collision, the Court, whether it is exercising its original or its appellate jurisdiction, may, if it thinks fit, and shall upon the application of either party to the cause, summon to its assistance, in such manner as it may, by rule, from time to time direct, two competent assessors; and such assessors shall attend and assist accordingly.

Assessors in *certain maritime cases.*

(2) Every such assessor shall receive such fees for his attendance as the Court may, by rule, from time to time prescribe; and such fees shall be paid by such of the parties as the Court may in each case direct.

646. Where the Registrar of a Court of Small Causes has any doubt upon any question of law or usage having the force of law, or as to the construction of a document, which construction may affect the merits of the decision, he may state a case for the opinion of the Judge; and all the provisions of this Code relating to the stating of a case by a Judge shall, so far as they are applicable, be deemed to apply to the stating of a case by such Registrar.

Power of Registrars of Small Cause Courts to state cases.

[Amended by VI of 1892, c. 4.]

647. (*1*) The procedure herein prescribed shall, so far as it is applicable, be followed in all proceedings in any Court of civil jurisdiction other than suits and appeals.

Miscellaneous proceedings.

(*2*) The High Court may, from time to time, make rules to provide for the admission, in such proceedings, of affidavits as evidence of the matters to which such affidavits respectively relate.

(*3*) All such rules shall be published in the local official Gazette, and shall thereupon have effect as if enacted in this Code.

(*4*) Nothing in this section shall be deemed to apply to applications for the execution of decrees.

[Amended by VII of 1888, s. 61 (*1*) and (*2*), and VI of 1900, s. 47.]

648. (*1*) Where any Court desires that any person shall be arrested or that any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or such property is situate outside the local limits of its jurisdiction, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment, and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate, a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

Procedure when person to be arrested or property to be attached is outside district.

(2) On receiving such copy and amount, the District Court shall cause the arrest or attachment to be made by its own officers, or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order, of the arrest or attachment.

(3) The Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he either shows cause to the satisfaction of the former Court why he should not be sent to the latter Court or furnishes sufficient security for his appearance before the latter Court or (where the case is one under Chapter XXXVI) for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him.

(4) Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or *at* Bombay, or of the Chief Court of Lower Burma, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras, Bombay or Rangoon, as the case may be, and that Court, on receiving such copy and account, shall proceed as if it were the District Court.

649. The provisions of Chapter XX shall be deemed to apply to the execution of any judicial process for the arrest ***and the detention in the civil prison*** of a person or the sale of property or the payment of money, which may be desired or ordered by a Civil Court in any civil proceeding.

Rules applicable to all civil process for arrest, sale or payment.

649A. (1) Where a Civil Court imposes a fine upon any person in exercise of any power conferred upon it by this Code, it may direct that, in default of payment,—

Recovery of fines.

(a) such person shall be detained in the civil prison for a period which shall not exceed,—

(i) where the fine exceeds fifty rupees, six months, and

(ii) in any other case, six weeks; or

(b) his property, or a sufficient part thereof, be attached and sold or, if already attached, be sold for the purpose of satisfying the fine together with all costs incurred in consequence of such attachment or sale,

or both,

(2) The provisions of this Code other than clause (v) of the proviso to sub-

The Code of Civil Procedure, 190 .

(Part XI.—Chapter LII.—Miscellaneous.—Sections 650-653B.)

section (1) of section 342, and of any rules made under this Code relating to detention in the civil prison of any person and to the attachment and sale of any property in the execution of a decree shall be deemed to apply to any detention, attachment or sale made under sub-section (1) as if the order were a decree and the person fined were a judgment-debtor:

Provided that nothing in this sub-section shall be deemed to require the making of an application or the payment of any subsistence-allowance, process-fee, court-fee or other like sum or the doing of any like act enjoined upon a decree-holder where the Court, otherwise than in the case specified in sub-section (3), orders any person to be detained or any property to be attached or sold.

(3) The Court may, in its discretion, direct that the costs of any detention in the civil prison or of any attachment or sale of property, ordered under sub-section (1), shall, in the first instance, be borne by the party (if any) on whose application such order was made; and in such case the provisions and rules referred to in sub-section (2) shall be deemed to apply as if such party and the person fined were a decree-holder and judgment-debtor respectively and the order were a decree.

[Amended by VII of 1888, s. 62.]

Application of rules as to witnesses.

650. The provisions of Chapters XV and XVI relating to witnesses shall be deemed to apply to all persons required to give evidence or to produce documents in any proceeding under this Code.

Service of foreign summonses.

650A. Summonses issued by any Civil or Revenue Court situate beyond the limits of British India may be sent to the Courts in British India and served as if they had been issued by such Courts:

Provided that the Courts issuing such summonses have been established or continued by the authority of the Governor General in Council or that the Governor General in Council has, by notification in the Gazette of India, declared the provisions of this section to apply to such Courts.

[Amended by VII of 1888, s. 63, and VIII of 1895, s. 2.]

Power to make subsidiary rules of procedure.

652. (*1*) Any High Court may, from time to time, make rules to regulate any matter connected with its own procedure or the procedure of the Civil Courts subject to its superintendence.

(*2*) Any High Court not established under the Indian High Courts, Act, 1861, may, from time to time, with the previous sanction of the Local Government, make, with respect to any matter other than procedure, any rule which any High Court so established might, under section 15 of the said Statute, make with respect to any such matter for any part of the territories under its jurisdiction which is not included within the limits of a presidency-town. [24 & 25 Vict., c. 104.]

(*3*) Notwithstanding anything in this Code, any High Court established under the said Statute may, from time to time, make such rules, consistent with its Charter, to regulate its own procedure in the exercise of its original civil jurisdiction, as it thinks fit.

(*4*) All such rules shall be published in the local official Gazette and shall thereupon have effect as if enacted in this Code.

Amendment of certain Acts.

653A. The enactments mentioned in the fourth schedule are hereby amended to the extent specified in the fourth column thereof. [New.]

Repeals and savings.

653B. The enactments mentioned in the fifth schedule are hereby repealed to the extent specified in the fourth column thereof: [3.]

Provided, first, that all notifications published, declarations and rules made, places appointed, agreements filed, scales prescribed, forms framed, appointments made and powers conferred under any such enactment as aforesaid shall, so far as they are consistent with this Code, be deemed to be respectively published, made, appointed, filed, prescribed, framed and conferred hereunder:

Provided, secondly, that, save as provided by section 99A, nothing herein contained shall affect any proceedings prior to decree in any suit instituted or appeal preferred before the commencement of this Code or any proceedings subsequent to decree that may have been taken and were still pending at such commencement:

Provided, thirdly, that every appeal pending at the commencement of this Code which would have lain if this Code had been in force on the date of its presentation, shall be heard and determined as if this Code had been in force on such date.

The Code of Civil Procedure, 190 .

(The First and Second Schedules.)

THE FIRST SCHEDULE.

(See section 4.)

1	2	3
Year.	*No.*	***Short title or subject.***
		Part I.—Bombay Regulations.
1827	*VIII*	***Administration of Estates.***
	XXIX	***Dekkhan and Khandesh (Puna, Ahmadnagar and Khandesh Districts).***
1830	*VII*	***Southern Maratha Country (Dharwar Districts).***
	XIII	***Jurisdiction of Jagirdars, etc.***
1831	*I*	***Land -suits.***
	XVI	***Land-suits.***
		Part II.—Acts of the Governor General in Council.
1835	*XIX*	***Assistant to Agent for Sardars in Dekkhan.***
1840	*XV*	***Agents of Foreign Sovereigns, etc., Bombay.***
1852	*XI*	***Titles to rent-free Estates, Bombay.***
1864	*II*	***Civil and Criminal Justice, Aden.***
1876	*X*	***The Bombay Revenue Jurisdiction Act, 1876.***
1879	*XVII*	***The Dekkhan Agriculturists' Relief Act, 1879.***
1881	*XX*	***The Sindh Incumbered Estates Act, 1881.***
	XXI	***The Broach and Kaira Incumbered Estates Act, 1881.***
1884	*XI*	***The Sindh Incumbered Estates Act, 1884.***
1896	*XX*	***The Sindh Incumbered Estates Act, 1896.***
		Part III.—Bombay Acts.
1862	*V*	***Bhagdari and Narvadari Tenures.***
	VI	***Ahmadabad Taluqdars.***
1863	*II*	***Exemptions from land-revenue in territories subject to Act XI of 1852.***
	VII	***Exemptions from land-revenue in territories not subject to Act XI of 1852.***
1874	*III*	***The Bombay Hereditary Offices Act.***
1876	*II*	***The Bombay City Land-revenue Act, 1876.***
	III	***The Mamlatdars' Courts Act, 1876.***
1879	*V*	***The Bombay Land-revenue Code, 1879.***
	VII	***The Bombay Irrigation Act, 1879.***
1880	*I*	***The Khoti Settlement Act, 1880.***
1887	*VI*	***The Matadars Act, 1887.***
1888	*VI*	***The Gujarat Taluqdars' Act, 1888.***

THE SECOND SCHEDULE.

[See section 8, sub-section (1).] [Substituted by X of 1888, s. 1.]

CHAPTERS AND SECTIONS OF THIS CODE EXTENDING TO PROVINCIAL COURTS OF SMALL CAUSES.

CHAPTER I.—Preliminary: Sections 1 *to 3* and section 8, sub-section (2).

CHAPTER II.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11 and section 14, sub-section (2).

CHAPTER III.—Of the Court of Institution, except section 24.

The Code of Civil Procedure, 190 .

(The Second Schedule.)

THE SECOND SCHEDULE—*continued.*

CHAPTER IV.—Of Parties and their Appearances, Applications and Acts.

CHAPTER V.—Of the Frame of the Suit, except section 42 and section ***47, sub-sections (1) and (2).***

CHAPTER VI.—Of the Institution of Suits.

CHAPTER VII.—Of the Issue and Service of Summons, except section 77.

CHAPTER VIII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER IX.—Of Written Statements***, Set-off and Counter-claim.***

CHAPTER X.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER XI.—Of Discovery and of the Admission, **Inspection, Production, Impounding and Return** of Documents.

CHAPTER XIII.—Section 155, Judgment where either party fails to produce evidence**, except the words after "*decide the suit forthwith.*"**

CHAPTER XIV.—Of Adjournments.

CHAPTER XV.—Of the Summoning and Attendance of Witnesses.

CHAPTER XVI.—Of the Hearing of the suit and Examination of Witnesses, except sections 182 to 188.

CHAPTER XVII.—Of Affidavits.

CHAPTER XVIII.—Of Judgment and Decree, except section 203, **sub-section (*3*), and sections** 207 ***and*** 211 ***to*** 215.

CHAPTER XIX.—Of Costs, sections 220 ***to*** 222.

CHAPTER XX.—Of the Execution of Decrees ***and Orders,*** sections ***222B to*** 223, ***223A (so far as relates to moveable property), 223B*** to 236, ***238A to 248J, 248L (except so far as relates to the taking down of evidence)***, 250 to 259, 336 to ***342A,*** 266 (except so far as relates to immoveable property), 267 to 272, 273 (so far as relates to decrees for moveable property), 275 to 278, 284 (so far as relates to moveable property), 286 ***to*** 289, 290 (so far as relates to moveable property), 291, ***291A,*** 293 (so far as relates to re-sales under section 297), 294 to 303, 257, 295, 328 to 333 ***and 335A*** (so far as ***they*** relate to moveable property), and 343.

CHAPTER XXI.—Section **344, sub-section (*1*),** Power to invest certain Courts with Insolvency-jurisdiction.

CHAPTER XXII.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXIII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIV.—Of Payment into Court.

CHAPTER XXV.—Of requiring Security for Costs.

CHAPTER XXVI.—Of Commissions ***and Local Investigations,*** except section 396.

CHAPTER XXVII.—Suits by or against Paupers.

CHAPTER XXVIII.—Suits by or against the Government or Public Officers.

CHAPTER XXIX.—Suits by Aliens and by or against Foreign and Native Rulers.

CHAPTER XXX.—Suits by or against Corporations and Companies.

CHAPTER XXXI.—Suits by or against Trustees, Executors and Administrators.

CHAPTER XXXII.—Suits by or against Minors and Persons of unsound Mind.

CHAPTER XXXIII.—Suits by or against Military Men.

CHAPTER XXXIV.—Suits by or against Firms and Persons carrying on business in names other than their own.

CHAPTER XXXV.—Interpleader.

CHAPTER XXXVI.—Of Arrest and Attachment before Judgment, ***except as regards immoveable property.***

CHAPTER XXXVIII.—Appointment of Receivers.

CHAPTER XXXIX.—Reference to Arbitration.

CHAPTER XL.—Of Proceedings on Agreement of Parties.

CHAPTER XLVIII.—Of References to the High Court.

CHAPTER L.—Of Review, sections 623 **and** 624, **section** 626, **sub-sections (*1*) and (*2*)** and 630.

CHAPTER LII.—Miscellaneous.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE.

(See section 644.)

FORMS OF PLEADINGS AND DECREES.

A.—PLAINTS. PART I.

No. 1.

FOR MONEY LENT.

IN THE COURT OF ,

Civil Suit No. .

A. B. of

against

C. D. of

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , he lent the defendant rupees repayable on demand [*or* on the day of].

2. That the defendant has not paid the same, except rupees paid on the day of 19 .

[*If the plaintiff claims exemption from any law of limitation, say :*—]

3. The plaintiff was a minor [*or* insane] from the day of till the day of .

4. The plaintiff prays judgment for rupees, with interest at per cent. from the day of 19 .

[NOTE.—The object of stating when the debt is to be repaid is merely to fix a date for interest. If, therefore, interest is not claimed the statement may be omitted.]

No. 2.

FOR MONEY RECEIVED TO PLAINTIFF'S USE.

(Title.)

A. B. and *G. H.*, the above-named plaintiffs, state as follows :—

1. That on the day 19 , at , the defendant received rupees [*or* a cheque on the Bank for rupees] from one *E. F.* for the use of the plaintiffs.

2. That the defendant has not paid [*or* delivered] the same accordingly.

3. The plaintiffs pray judgment for rupees, with interest at per cent. from the day of 19 .

No. 3.

FOR PRICE OF GOODS SOLD BY A FACTOR.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , he and *E. F.*, since deceased, delivered to the defendant [*one thousand barrels of flour, five hundred maunds of rice, or as the case may be*] for sale upon commission.

2. That on the day of 19 [*or*, on some day unknown to the plaintiff, before day of 19], the defendant sold the said merchandise for rupees.

3. That the commission and expenses of the defendant thereon amount to rupees.

4. That on the day of 19 , the plaintiff demanded from the defendant the proceeds of the said merchandise.

5. That he has not paid the same.

[*Demand of judgment.*]

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 4.

FOR MONEY RECEIVED BY DEFENDANT THROUGH THE PLAINTIFF'S MISTAKE OF FACT.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the plaintiff agreed to buy and the defendant agreed to sell bars of silver at annas per tola of fine silver.

2 That the plaintiff procured the said bars, to be assayed by one *E. F.*, who was paid by the defendant for such assay, and that the said *E. F.* declared each of the said bars to contain 1,500 tolas of fine silver, and that the plaintiff accordingly paid the defendant rupees annas therefor.

3. That each of the said bars did contain only 1,200 tolas of fine silver.

4. That the defendant has not repaid the sum so overpaid.

[Demand of judgment.]

[NOTE.—A demand of re-payment is not necessary, but it may affect the question of interest or the costs.]

No. 5.

FOR MONEY PAID TO A THIRD PARTY AT THE DEFENDANT'S REQUEST.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , at the request [*or* by the authority] of the defendant, the plaintiff paid to one *E. F.* rupees.

2. That, in consideration thereof, the defendant promised [*or* became bound] to pay the same to the plaintiff on demand [*or as the case may be*].

3. That [on the day of 19 , the plaintiff demanded payment of the same from the defendant, but] he has not paid the same.

[Demand of judgment.]

[NOTE.—If the request or authority is implied, the plaint should state facts raising the implication.]

No. 6.

FOR GOODS SOLD AT A FIXED PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows : —

1. That on the day of 19 , at , *E. F.*, of , deceased, sold and delivered to the defendant [one hundred barrels of flour, *or*, the goods mentioned in the schedule hereto annexed, *or*, sundry goods].

2. That the defendant promised to pay rupees for the said goods on delivery [*or* on the day of *some day before the plaint was filed*].

3. That he was not paid the same.

4. That the said *E. F.* in his lifetime made his will, whereby he appointed the plaintiff executor thereof.

5. That on the day of 19 the said *E. F.* died.

6. That on the day of 19 probate of the said will was granted to the plaintiff by the Court of .

7. The plaintiff as executor as aforesaid.

[Demand of judgment.]

[NOTE.—If a day was fixed for payment, it should be stated as furnishing a date for the commencement of interest.]

No. 7.

GOODS SOLD AT A REASONABLE PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , plaintiff sold and delivered to the defendant [sundry articles of house-furniture] but no express agreement was made as to the price.

2. That the same were reasonably worth rupees.

3. That the defendant has not paid the same.

[Demand of judgment.]

[NOTE.—The law implies a promise to pay so much as the goods are reasonably worth.]

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 8.

FOR GOODS DELIVERED TO A THIRD PARTY AT DEFENDANT'S REQUEST AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , at , plaintiff sold to the defendant [one hundred barrels of flour], and, at the request of the defendant, delivered the same to one *E. F.*

2. That the defendant promised to pay to the plaintiff rupees therefor.

3. That he has not paid the same.

[Demand of judgment.]

No. 9.

FOR NECESSARIES FURNISHED TO THE FAMILY OF DEFENDANT'S TESTATOR WITHOUT HIS EXPRESS REQUEST, AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , at , plaintiff furnished to [*Mary Jones*] the wife of [*James Jones*], deceased, at her request, sundry articles of [*food and clothing*], but no express agreement was made as to the price.

2. That the same were necessary for her.

3. That the same were reasonably worth rupees.

4. That the said *James Jones* refused to pay the same.

5. That the defendant is the executor of the last will of the said *James Jones.*

[Demand of judgment.]

No. 10.

FOR GOODS SOLD AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , at , the plaintiff sold to *E. F.*, of , deceased [*all the crops then growing on his farm in*].

2. That the said *E. F.* promised to pay the plaintiff rupees for the same.

3. That he did not pay the same.

4. That the defendant is administrator of the estate of the said *E. F.*

[Demand of judgment.]

No. 11.

FOR GOODS SOLD AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , at , *E. F.*, of , sold to the defendant [*all the fruit growing on his orchard in*], but no express agreement was made as to the price.

2. That the same was reasonably worth rupees.

3. That the defendant has not paid the same.

4. That on the day of 19 the High Court of Judicature at Fort William in Bengal duly adjudged the said *E. F.* to be a lunatic and appointed the plaintiff committee of his estate, with the usual powers for the management thereof.

5. The plaintiff as committee as aforesaid.

[Demand of judgment.]

[NOTE.—When the lunatic's estate is not subject to the ordinary original jurisdiction of a High Court, for paragraphs 4 and 5 substitute the following:—]

4. That on the day of 19 the Civil Court of duly adjudged the said *E. F.* to be of unsound mind and incapable of managing his affairs, and appointed the plaintiff Manager of his estate.

5. The plaintiff as Manager as aforesaid.

[Demand of judgment.]

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 12.

FOR GOODS MADE AT DEFENDANT'S REQUEST, AND NOT ACCEPTED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , at , *E. F.*, of agreed with the plaintiff that the plaintiff should make for him [*six tables and fifty chairs*], and that the said *E. F.* should pay for the same upon the delivery thereof rupees.

2. That the plaintiff made the said goods, and on the day of 19 , offered to deliver the same to the said *E. F.*, and has ever since been ready and willing so to do.

3. That the said *E. F.* has not accepted the said goods or paid for the same.

4. That on the day of 19 , the High Court of Judicature at Fort William in Bengal duly adjudged the said *E. F.* to be a lunatic, and appointed the defendant committee of his estate.

5. The plaintiff prays judgment for rupees with interest from the day of , at the rate of per cent. per annum, to be paid out of the estate of the said *E. F.* in the hands of the defendant.

No. 13.

FOR DEFICIENCY UPON A RE-SALE [GOODS SOLD AT AUCTION].

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , at , plaintiff put up at auction sundry [*articles of merchandise*], subject to the condition that all goods not paid for and removed by the purchaser thereof within [*ten days*] after the sale should be re-sold by auction on his account, of which condition the defendant had notice.

2. That the defendant purchased [*one crate of crockery*] at the said auction at the price of rupees.

3. That the plaintiff was ready and willing to deliver the same to the defendant on the said day and for [*ten days*] thereafter, of which the defendant had notice.

4. That the defendant did not take away the said goods purchased by him, nor pay therefor, within [*ten days*] after the sale, nor afterwards.

5. That on the day of 19 , at , the plaintiff re-sold the said [*crate of crockery*], on account of the defendant, by public auction, for rupees.

6. That the expenses attendant upon such re-sale amounted to rupees.

7. That the defendant has not paid the deficiency thus arising, amounting to rupees.

[*Demand of judgment.*]

[NOTE to § 4.—Unless the seller agreed to deliver, the purchaser must fetch the goods; see Act IX of 1872, section 93.]

No. 14.

FOR THE PURCHASE-MONEY OF LANDS CONVEYED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , at , the plaintiff sold [and conveyed] to the defendant [the house and compound No. , in the city of , *or*, a farm known as , in *or*, a piece of land lying, *&c.*]

2. That the defendant promised to pay the plaintiff rupees for the said [house and compound, *or* farm, *or* land].

3. That he has not paid the same.

[*Demand of judgment.*]

[NOTE.—Where there has been no actual conveyance, say, in § 1, "sold to the defendant] the house, etc., and placed him in possession of the same."]

No. 15.

FOR THE PURCHASE-MONEY OF IMMOVEABLE PROPERTY CONTRACTED TO BE SOLD, BUT NOT CONVEYED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase

The Code of Civil Procedure, 190 .

(*The Third Schedule.*)

THE THIRD SCHEDULE—*continued.*

from the plaintiff, [the house No. , in the town of , *or* one hundred bighás of land in , bounded by the East Indian railroad, and by other lands of the plaintiff] for rupees.

2. That on the day of 19 , at , the plaintiff tendered [*or* was ready and willing, and offered to execute] a sufficient instrument of conveyance of the said property to the defendant, on payment of the said sum, and still is ready and willing to execute the same.

3. That the defendant has not paid the said sum.

[*Demand of judgment.*]

No. 16.

FOR SERVICES AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant [hired plaintiff as a clerk, at the salary of rupees per year].

2. That from the [said day] until the day of 19 , the plaintiff served the defendant as his [clerk].

3. That the defendant has not paid the said salary.

[*Demand of judgment.*]

No. 17.

FOR SERVICES AT REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That between the day of 19 , and the day of 19 , at , plaintiff [executed sundry drawings, designs and diagrams] for the defendant, at his request; but no express agreement was made as to the sum to be paid for such services.

2. That the said services were reasonably worth rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 18.

FOR SERVICES AND MATERIALS AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , plaintiff [furnished the paper for and printed one thousand copies of a book called] for the defendant, at his request [and delivered the same to him].

2. That the defendant promised to pay rupees therefor.

3. That he has not paid the same.

[*Demand of judgment.*]

No. 19.

FOR SERVICES AND MATERIALS AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , plaintiff built a house [known as No. , in], and furnished the materials therefor, for the defendant, at his request, but no express agreement was made as to the price to be paid for such work and materials.

2. That the said work and materials were reasonably worth rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 20.

FOR RENT RESERVED IN A LEASE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant entered into a contract with the plaintiff, under their hands, a copy of which is hereto annexed.

[Or state the substance of the contract.]

2. That the defendant has not paid the rent of the [month] ending on the day of 19 , amounting to rupees.

[Demand of judgment.]

Another form.

1. That the plaintiff let to the defendant a house, No. 27, Chowringhee, for seven years to hold from the day of 19 , at rupees a year, payable quarterly.

2. That of such rent quarters are due and unpaid.

[Demand of judgment.]

No. 21.

FOR USE AND OCCUPATION AT A FIXED RENT.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant hired from the plaintiff [the house No. , Street], at the rent of rupees, payable on the first day of .

2. That the defendant occupied the said premises from the day of 19 , to the day of 19 .

3. That the defendant has not paid rupees, being the part of said rent due on the first day of 19 .

[Demand of judgment.]

No. 22.

FOR USE AND OCCUPATION AT A REASONABLE RENT.

(Title.)

A. B., the above-named plaintiff, executor of the will of *X. Y.*, deceased, states as follows :—

1. That the defendant occupied the [house No. , Street], by permission of the said *X. Y.*, from the day of 19 , until the day of 19 , and no agreement was made as to payment for the use of the said premises.

2. That the use of the said premises for the said period was reasonably worth rupees.

3. That the defendant has not paid the same.

4. The plaintiff as such executor as aforesaid prays judgment for rupees.

No. 23.

FOR BOARD AND LODGING.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That from the day of 19 , until the day of 19 , the defendant occupied certain rooms in the house [No. , Street], by permission of the plaintiff, and was furnished by the plaintiff, at his request, with meat, drink, attendance and other necessaries.

2. That, in consideration thereof, the defendant promised to pay [*or*, that no agreement was made], as to payment for such meat, drink, attendance or necessaries, but the same were reasonably worth the sum of rupees.

3. That the defendant has not paid the same.

[Demand of judgment.]

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 24.

FOR FREIGHT OF GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , plaintiff transported in his barge [or otherwise] [one thousand barrels of flour, or sundry goods], from to , at the request of the defendant.

2. That the defendant promised to pay the plaintiff the sum of [one rupee per barrel] as freight thereon [*or*, that no agreement was made as to payment for such transportation, but such transportation was reasonably worth rupees].

3. That the defendant has not paid the same.

[Demand of judgment.]

No. 25.

FOR PASSAGE-MONEY.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , plaintiff conveyed the defendant [in his ship, called the], from to at his request.

2. That the defendant promised to pay the plaintiff rupees therefor [*or*, that no agreement was made as to the price of the said passage, but the said passage was reasonably worth rupees].

3. That the defendant has not paid the same.

[Demand of judgment.]

No. 26.

ON AN AWARD.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at the plaintiff and defendant, having a controversy between them concerning [a demand of the plaintiff for the price of ten barrels of oil, which the defendant refused to pay], agreed to submit the same to the award of *E. F.* and *G. H.*, as arbitrators [*or*, entered into an agreement, a copy of which is hereto annexed].

2. That on the day of 19 , at , the said arbitrators awarded that the defendant should [pay the plaintiff rupees].

3. That the defendant has not paid the same.

[Demand of judgment.]

[NOTE.—This will apply where the agreement to refer is not filed in Court.]

No. 27.

ON A FOREIGN JUDGMENT.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at in the State [*or* Kingdom] of , the Court of that State [*or* Kingdom], in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff rupees, with interest from the said date.

2. That the defendant has not paid the same.

[Demand of judgment.]

PLAINTS UPON INSTRUMENTS FOR THE PAYMENT OF MONEY ONLY.

No. 28.

ON AN ANNUITY BOND.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at the defendant by his bond became bound to the plaintiff in the sum of

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

rupees to be paid by the defendant to the plaintiff, subject to a condition that if the defendant should pa to the plaintiff rupees half-yearly on the day of and the day of in every year during the life of the plaintiff, the said bon should be void.

2. That afterwards, on the day of 19 , the sum of rupee for of the said half-yearly payments of the said annuity, became due to th plaintiff and is still unpaid.

[*Demand of judgment.*]

No. 29.

PAYEE AGAINST MAKER.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at the defendant, by his promissory note, now overdue, promised to pay to the plaintiff rupees [days] after date.

2. That he has not paid the same [except rupees, paid on the day of 19].

[*Demand of judgment.*]

[NOTE.—*Where the note is payable after notice, for paragraphs 1 and 2 substitute—*]

1. That on the day of 19 , at , the defendant, by his promissory note, promised to pay to the plaintiff rupees months after notice.

2. That notice was afterwards given by the plaintiff to the defendant to pay the same months after the said notice.

3. That the said time for payment has elapsed, but the defendant has not paid the same.

[*Where the note is payable at a particular place, say—*]

1. That on the day of 19 , at , the defendant, by his promissory note, now overdue, promised to pay to the plaintiff [at Messrs. *A. & Co.'s.*, Madras] rupees months after date.

2. That the said note was duly presented for payment [at Messrs. *A. & Co.'s*] aforesaid, but has not been paid.

Written Statement of the Defendant.

IN THE COURT, &C.

C. D., the above-named defendant, states as follows :—

The defendant made the note sued upon under the following circumstances :—The plaintiff and defendant had for some years been in partnership as indigo manufacturers, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, and that the defendant should take over the whole of the partnership-assets and liabilities and should pay the plaintiff the value of his share in the assets after deducting the liabilities.

2. The plaintiff thereupon undertook to examine the partnership-books and inquire into the state of the partnership-assets and liabilities; and he did accordingly examine the said books and make the said inquiries, and he thereupon represented to the defendant that the assets of the firm exceeded Rs. 1,00,000 and that the liabilities of the firm were less than Rs. 30,000, whereas the fact was that the assets of the firm were less than Rs. 50,000 and the liabilities of the firm largely exceeded the assets.

3. The misrepresentations mentioned in the second paragraph of this statement induced the defendant to make the note now sued on, and there never was any other consideration for the making of such note.

No. 30.

FIRST INDORSEE AGAINST MAKER.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at the defendant, by his promissory note, now overdue, promised to pay to the order of *E. F.* [*or* to *E. F.* or order], rupees [days after date].

2. That the said *E. F.* indorsed the same to the plaintiff.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 31.

SUBSEQUENT INDORSEE AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. [*As in the last preceding form.*]

2. That the same was, by the indorsement of the said *E. F.* and of *G. H.* and *I. J.* [*or* and others] transferred to the plaintiff.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 32.

FIRST INDORSEE AGAINST FIRST INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows : —

1. That *E. F.*, on the day of 19 , at , by his promissory note, now overdue, promised to pay to the defendant or order rupees months after date.

2. That the defendant indorsed the same to the plaintiff.

3. That on the day of 19 , the same was duly presented for payment, but was not paid.

[*Or state facts excusing want of presentment.*]

4. That the defendant had notice thereof.

5. That he has not paid the same.

[*Demand of judgment.*]

No. 33.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant indorsed to one *E. F.* a promissory note, now overdue, made [*or* purporting to have been made] by one *G. H.*, on the day of 19 , at , to the order of the defendant, for the sum of rupees [payable days after date].

2. That the same was, by the indorsement of the said *E. F.* [and others], transferred to the plaintiff [*or*, that the said *E. F.* indorsed the same to the plaintiff].

3, 4 and 5. [*Same as 3, 4 and 5 of the last preceding form.*]

[*Demand of judgment.*]

No. 34.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant indorsed to him a promissory note, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 19 , at , to the order of one *G. H.*, for the sum of rupees [payable days after date], and endorsed by the said *G. H.* to the defendant.

2, 3 and 4. [*Same as in 3, 4 and 5 in Form No. 33.*]

[*Demand of judgment.*]

No. 35.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That a promissory note, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 19 , at , to the order of one *G. H.*, for the sum of rupees [payable days after date], and indorsed by the said *G. H.* to the defendant, was by the indorsement of the defendant [and others] transferred to the plaintiff.

2, 3 and 4. [*As in No. 33.*]

[*Demand of judgment.*]

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 36.

SUBSEQUENT INDORSEE AGAINST MAKER AND FIRST AND SECOND INDORSER.

IN THE COURT OF , AT

Civil Suit, No. .

A. B. of

against

C. D. of

E. F. of

and

G. H. of

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant, *C. D.*, by his promissory note, now overdue, promised to pay to the order of the defendant, *E. F.*, rupees [months after date].

2. That the said *E. F.* indorsed the same to the defendant, *G. H.*, who indorsed it to the plaintiff.

3. That on the day of 19 , the same was presented [*or state facts excusing want of presentment*] to the said *C. D.* for payment, but was not paid.

4. That the said *E. F.* and *G. H.* had notice thereof.

5. That they have not paid the same.

[*Demand of judgment.*]

No. 37.

DRAWER AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , by his bill of exchange, now overdue, the plaintiff required the defendant to pay to him rupees [days after date, or sight, thereof].

2. That the defendant accepted the said bill. [*If the bill is payable at a certain time after sight, the date of acceptance should be stated ; otherwise it is not necessary.*]

3. That he has not paid the same.

4. That by reason thereof the plaintiff incurred expenses in and about the presenting and noting of the bill, and incidental to the dishonour thereof.

[*Demand of judgment.*]

[NOTE.—Where the bill is payable to a third party, for paragraphs 1, 2, 3, say—]

1. That on, &c., at, &c., by his bill of exchange, now overdue, directed to the defendant, the plaintiff required the defendant to pay to *E. F.* or order rupees months after date.
2. That the plaintiff delivered the said bill to the said *E. F.* on .
3. That the defendant accepted the said bill, but did not pay the same, whereupon the same was returned to the plaintiff.

No. 38.

PAYEE AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , the defendant accepted a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 19 , at , requiring the defendant to pay to the plaintiff rupees after sight thereof.

2. That he has not paid the same.

[*Demand of judgment.*]

No. 39.

FIRST INDORSEE AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , the defendant accepted a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 19 , at , requiring the defendant to pay to the order of one *G. H.* rupees after sight thereof.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

2. That the said *G. H.* indorsed the same to the plaintiff.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 40.

SUBSEQUENT INDORSEE AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. [*As in the last preceding form to the end of article 1.*]

2. That, by the indorsement of the said *G. H.* [and others], the same was transferred to the plaintiff

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 41.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant, by his bill of exchange, directed to *E. F.*, required the said *E. F.* to pay to the plaintiff rupees [days after sight].

2. That on the day of 19 , the same was duly presented to the said *E. F.* for acceptance, and was dishonoured.

3. That the defendant had due notice thereof.

4. That he has not paid the same.

[*Demand of judgment.*]

No. 42.

FIRST INDORSEE AGAINST FIRST INDORSER.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant indorsed to the plaintiff a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 19 , at , requiring one *G. H.* to pay to the order of the defendant rupees [days] after sight [*or* after date, *or* at sight] thereof [and accepted by the said *G. H.* on the day of 19]

2. That on the day of 19 , the same was presented to the said *G. H.* for payment, and was dishonoured.

3. That the defendant had due notice thereof.

4. That he has not paid the same.

[*Demand of judgment.*]

No. 43.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant indorsed to one *E. F.* a bill of exchange, now overdue, made [*or* purporting to have been made] by one *G. H.*, on the day of 19 , at , requiring one *I. J.* to pay to the order of the defendant rupees days after sight thereof [*or otherwise*], and accepted by the said *I. J.* on the day of 19 . [*This clause may be comitted if not according to the fact.*]

2. That the same was, by the indorsement of the said *E. F.* [and others], transferred to the plaintiff.

3. That on the day of 19 , the same was presented to the said *I. J.* for payment, and was dishonoured.

4. That the defendant had due notice thereof.

5. That he has not paid the same.

[*Demand of judgment.*]

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 44.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant indorsed to plaintiff a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 19 , at , requiring one *G. H.* to pay to the order of *I. J.* rupees days after sight thereof [*or otherwise*], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant.

2. That on the day of 19 , the same was presented to the said *G. H.* for payment, and was dishonoured.

3. That the defendant had due notice thereof.

4. That he has not paid the same.

[*Demand of judgment.*]

No. 45.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 19 , at , requiring one *G. H.* to pay to the order of one *I. J.* rupees days after sight thereof [*or otherwise*], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant, was, by the indorsement of the defendant [and others], transferred to the plaintiff.

2. That on the day of 19 , the same was presented to the said *G. H.* for payment, and was dishonoured.

3. That the defendant had due notice thereof.

4. That he has not paid the same.

[*Demand of judgment.*]

No. 46.

INDORSEE AGAINST DRAWER, ACCEPTOR AND INDORSER.

IN THE COURT OF , AT

Civil Suit No. .

A. B. of

against

C. D. of

E. F of

and

G. H. of

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant, *C.D.*, by his bill of exchange, now overdue, directed to the defendant *E. F.*, required the said *E. F.* to pay to the order of the defendant *G. H.* rupees [days after sight thereof].

2. That on the day of 19 , the said *E. F* accepted the same.

3. That the said *G. H.* indorsed the same to the plaintiff.

4. That on the day of 19 , the same was presented to the said *E. F.* for payment, and was dishonoured.

5. That the other defendants had due notice thereof.

6. That they have not paid the same.

[*Demand of judgment.*]

No. 47.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE OF A FOREIGN BILL.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant by his bill of exchange, drawn in Calcutta, required one *E. F.* to pay to the plaintiff in [London] pounds sterling, [sixty days] after sight thereof.

The Code of Civil Procedure, 190 .

(*The Third Schedule.*)

THE THIRD SCHEDULE—*continued.*

2. That on the day of 19 , the same was presented to the said *E. F.* for acceptance, and was dishonoured, and was thereupon duly protested.

3. That the defendant had due notice thereof.

4. That he has not paid the same.

5. That the value of pounds sterling, at the time of the service of notice or protest on the defendant, was rupees annas.

Wherefore the plaintiff demands judgment against the defendant for rupees, with [ten per cent.] compensation and interest from the day of 19 .

No. 48.

PAYEE AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , one *E. F.*, by his bill of exchange, now overdue, directed to the defendant, required the defendant to pay to the plaintiff rupees after date [*or* days after sight] thereof.

2. That on the day of 19 , the defendant accepted the said

3. That he has not paid the same.

[*Demand of judgment.*]

No. 49.

ON A MARINE [OPEN] POLICY, ON VESSEL LOST BY PERILS OF THE SEA, ETC.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. The plaintiff was the owner of [*or* had an interest in] the ship at the time of her loss, as hereinafter mentioned.

2. That on the day of 19 , at , the defendants, in consideration of rupees to them paid [*or* which the plaintiff then promised to pay], executed to him a policy of insurance upon the said ship, a copy of which is hereto annexed [*or*, whereby they promised to pay to the plaintiff, within days after proof of loss and interest, all loss and damage accruing to him by reason of the destruction or injury of the said ship, during her next voyage from to , whether by perils of the sea or by fire, or by other causes therein-mentioned, not exceeding rupees].

3. That the said ship, while proceeding on the voyage mentioned in the said policy, was on the day of 19 totally lost by the perils of the sea [*or otherwise*].

4. That the plaintiff's loss thereby was rupees.

5. That on the day of 19 , he furnished the defendants with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendants have not paid the said loss.

[*Demand of judgment.*]

No. 50.

ON CARGO, LOST BY FIRE :—VALUED POLICY.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That plaintiff was the owner of [*or* had an interest in] [one hundred bales of cotton] on board the ship at the time of her loss as hereinafter mentioned.

2. That on the day 19 , at , the defendants, in consideration of rupees which the plaintiff then paid [*or* promised to pay], executed to him a policy of insurance upon the said goods, a copy of which is hereto annexed [*or*, whereby they promised to pay to the plaintiff rupees in case of the total loss, by fire or other causes mentioned, of the said goods before their landing at ; *or*, in case of partial loss, such damage as the plaintiff might sustain thereby, provided the same should not exceed per cent. of the whole value of the goods].

3. That on the day of 19 , at , while proceeding on the voyage mentioned in the said policy, the said goods were totally destroyed by fire (*or* as the case may be).

4, 5 and 6. [*As in paragraphs 4, 5 and 6 of the last preceding form.*]

[*Demand of judgment.*]

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 51.

ON FREIGHT:—VALUED POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff had an interest in the freight to be earned by the ship on her voyage from to at the time of her loss as hereinafter mentioned, and that a large quantity of goods was shipped upon freight in her at that time.

2. That on the day of 19 , at the defendant, in consideration of rupees to him paid, executed to the plaintiff a policy of insurance upon the said freight, a copy of which is hereto annexed [*or state its tenor, as before*].

3. That the said ship, while proceeding upon the voyage mentioned in the said policy, was, on the day of 19 , totally lost by [the perils of the sea].

4. That the plaintiff has not received any freight from the said ship, nor did she earn any on the said voyage, by reason of her loss as aforesaid.

5 and 6. [*As in Form No. 49.*]

[*Demand of judgment.*]

No. 52.

FOR A LOSS BY GENERAL AVERAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [*or* had an interest in] [one hundred bales of cotton] shipped on board a vessel called the *Y. Z.*, from to , at the time of the loss hereafter mentioned.

2. That on the day of 19 , at , in consideration of rupees [which the plaintiff then promised to pay], the defendant executed to the plaintiff a policy of insurance upon his said goods, a copy of which is hereto annexed [*or state its tenor, as before*].

3. That on the day of 19 , while proceeding on the voyage mentioned in the said policy, the said vessel was so endangered by perils of the sea that the master and crew thereof were compelled to, and did, cast into the sea a large part of her rigging and furniture.

4. That plaintiff was, by reason thereof, compelled to, and did, pay a general average loss of rupees.

5. That on the day of 19 , he furnished the defendant with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendant has not paid the said loss.

[*Demand of judgment.*]

No. 53.

FOR A PARTICULAR AVERAGE LOSS.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1 and 2. [*As in the last preceding form.*]

3. That on the day of 19 , while on the high seas, the sea water broke into the said ship, and damaged the said [cotton] to the amount of rupees.

4 and 5. [*As in paragraphs 5 and 6 of the last preceding form.*]

[*Demand of judgment.*]

No. 54.

ON A FIRE-INSURANCE POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff [was the owner of, *or*] had an interest in a [dwelling-house, known as No. , street, in the city of ,] at the time of its destruction [*or*, injury] by fire are hereinafter mentioned.

2. That on the day of 19 , at , in consideration of rupees [to them paid], the defendants executed to the plaintiff a policy of insurance on the said [premises], a copy of which is hereto annexed [*or state its tenor*].

3. That on the day of 19 , the said [dwelling-house] was totally destroyed [*or* greatly damaged] by fire.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

4. That the plaintiff's loss thereby was rupees.

5. That on the day of 19 , he furnished the defendants with proof of his said loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendants have not paid the said loss.

[*Demand of judgment.*]

No. 55.

AGAINST SURETY FOR PAYMENT OF RENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , at , one *E. F.* hired from the plaintiff, for the term of years, the [house No. , Street,] at the annual rent of rupees, payable [monthly].

2. That [at the same time and place] the defendant agreed, in consideration of the letting of the said premises to the said *E. F.*, to guarantee the punctual payment of the said rent.

3. That the rent aforesaid for the month of 19 , amounting to rupees, has not been paid.

[*If, by the terms of the agreement, notice is required to be given to the surety, add :—*]

4. That on the day of 19 , the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.

5. That he has not paid the same.

[*Demand of judgment.*]

B.—PLAINTS FOR COMPENSATION FOR BREACH OF CONTRACT.

No. 56.

FOR BREACH OF AGREEMENT TO CONVEY LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[*Or*, that on, &c., the defendant agreed with the plaintiff that, in consideration of a deposit of rupees then paid, and of the further sum of [ten thousand] rupees payable as hereinafter mentioned, he would, on the day of 19 , at , execute to the plaintiff a sufficient conveyance of [the house No. , street, in the city of , free from all incumbrances; and the plaintiff agreed to pay [ten thousand] rupees for the same on delivery thereof].

2. That on the day of 19 , the plaintiff demanded the conveyance of the said property from the defendant and tendered rupees to the defendant [*or*, that all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part].

3. That the defendant has not executed any conveyance of the said property to the plaintiff [*or*, that there is a mortgage upon the said property, made by to , for rupees, registered in the office of , on the day of 19 , and still unsatisfied, *or any other defect of title*].

4. That the plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid and of other moneys provided by him for the completion of the said purchase, and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.

5. The plaintiff prays judgment for rupees compensation.

No. 57.

FOR BREACH OF AGREEMENT TO PURCHASE LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[*Or*, that on the day of 19 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant and that the defendant should purchase from the plaintiff forty bighas of land in the village of for rupees.]

2. That on the day of 19 , at , the plaintiff, being then the absolute owner of the said property [and the same being free from all incumbrances as was made to appear to the defendant], tendered to the defendant a sufficient instrument of conveyance of the same [*or*, was ready and willing, and offered, to convey the same to the defendant by a sufficient instrument], on the payment by the defendant of the said sum.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 58.

Another Form.

FOR NOT COMPLETING A PURCHASE OF IMMOVEABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That by an agreement dated the day of 19 , it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant and the defendant should purchase from the plaintiff a house and land at the price of rupees, upon the terms and conditions following (that is to say):—

(*a*) That the defendant should pay the plaintiff a deposit of rupees in part of the said purchase-money on the signing of the said agreement, and the remainder on the day of 19 , on which day the said purchase should be completed.

(*b*) That the plaintiff should deduce and make a good title to the said premises on or before the day of 19 , and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.

2. That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part; yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid on his part.

3. That the plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

[*Demand of judgment.*]

No. 59.

FOR NOT DELIVERING GOODS SOLD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , at , the plaintiff and defendant mutually agreed that the defendant should deliver [one hundred barrels of flour] to the plaintiff [on the day of 19], and that the plaintiff should pay therefor rupees on delivery.

2. That on the [said] day the plaintiff was ready and willing, and offered, to pay the defendant the said sum upon delivery of the said goods.

3. That the defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

[*Demand of judgment.*]

No. 60.

FOR BREACH OF CONTRACT TO EMPLOY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , at , the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as [an accountant, *or*, in the capacity of foreman, *or as the case may be*], and that the defendant should employ the plaintiff as such for the term of [one year], and pay him for his services rupees [monthly].

2. That on the day of 19 , the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always has notice.

3. That on the day of 19 , the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid, or to pay him for his services.

[*Demand of judgment.*]

No. 61.

FOR BREACH OF CONTRACT TO EMPLOY, WHERE THE EMPLOYMENT NEVER TOOK EFFECT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [*As in last preceding Form.*]

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

2. That on the day of 19 , at , the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing so to do.

3. That the defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

[*Demand of judgment.*]

No. 62.

FOR BREACH OF CONTRACT TO SERVE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at an [annual] compensation of rupees, and that the defendant should serve the plaintiff as [an artist] for the term of [one year].

2. That the plaintiff has always been ready and willing to perform his part of the said agreement [and on the day of 19 , offered so to do].

3. That the defendant [entered upon] the service of the plaintiff on the above-mentioned day, but afterwards, on the day of 19 , he refused to serve the plaintiff as aforesaid.

[*Demand of judgment.*]

No. 63.

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed.

[*Or state the tenor of the contract.*]

[2. That the plaintiff duly performed all the conditions of the said agreement on his part.]

3. That the defendant [built the house referred to in the said agreement in a bad and unworkmanlike manner].

[*Demand of judgment.*]

No. 64.

BY THE MASTER AGAINST THE FATHER OR GUARDIAN OF AN APPRENTICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , defendant entered into an agreement, under his hand and seal,* a copy of which is hereto annexed.

[*Or state the tenor of the contract.*]

2. That after the making of the said agreement the plaintiff received the said [*apprentice*] into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3. That on the day of 19 , the said [*apprentice*] wilfully absented himself from the service of the plaintiff, and continued so to do.

[*Demand of judgment.*]

* The form given in Act XIX of 1850 requires the seal of the father or guardian.

No. 65.

BY THE APPRENTICE AGAINST THE MASTER.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant entered into an agreement with the plaintiff and his [father], *E. F.*, under their hands and seals, a copy of which is hereto annexed

2. That after the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice to serve for the term mentioned in the said agreement and has always performed all things in the said agreement contained on his part to be performed.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

3. That the defendant has not [instructed the plaintiff in the business of , *or state any other breach, such as cruelty, failure to provide sufficient food, or other ill-treatment*].

[*Demand of judgment.*]

No. 66.

ON A BOND FOR THE FIDELITY OF A CLERK.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , plaintiff employed one *E. F.* as a clerk.

2. That on the day of 19 , at , the defendant agreed with the plaintiff that if the said *E. F.* should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidences of debt or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding rupees.

[*Or*, 2. That at the same time and place the defendant bound himself to the plaintiff, by a writing under his hand, in the penal sum of rupees, conditioned that if the said *E. F.* should faithfully perform his duties as clerk and cashier to the plaintiff and should justly account to the plaintiff for all moneys, evidences of debt or other property which should be at any time held by him in trust for the plaintiff, the same should be void but not otherwise.]

[*Or*, 2. That at the same time and place the defendant executed to the plaintiff a bond, a copy of which is hereto annexed.]

3. That between the day of 19 and the day of 19 the said *E. F.* received money and other property, amounting to the value of rupees, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

[*Demand of judgment.*]

No. 67.

BY TENANT AGAINST LANDLORD, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant, by an instrument in writing, let to the plaintiff [the house No. , Street], for the term of years, contracting with the plaintiff that he, the plaintiff, and his legal representatives should quietly enjoy possession thereof for the said term.

2. That all conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3. That on the day of during the said term, one *E. F.*, who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4. That the plaintiff was thereby [prevented from continuing the business of a tailor at the said place, was compelled to expend rupees in moving, and lost the custom of *G. H.* and *I. J.* by such removal].

[*Demand of judgment.*]

No. 68.

FOR BREACH OF WARRANTY OF MOVEABLES.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant warranted a steam-engine to be in good working order, and thereby induced the plaintiff to purchase the same of him and to pay him rupees therefor.

2. That the said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which could otherwise have accrued to him while the engine was under repair.

[*Demand of judgment.*]

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued*.

No. 69.

ON AN AGREEMENT OF INDEMNITY.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the plaintiff and defendant, being partners in trade under the firm of *A. B. & C. D.*, dissolved the said partnership, and mutually agreed that the defendant should take and keep all the partnership-property, pay all debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.

2. That the plaintiff duly performed all the conditions of the said agreement on his part.

3. That on the day of 19 , [a judgment was recovered against the plaintiff and defendant by one *E. F.*, in the High Court of Judicature at , upon a debt due from the said firm to the said *E. F.*, and on the day of 19 ,] the plaintiff paid rupees [in satisfaction of the same].

4. That the defendant has not paid the same to the plaintiff.

[Demand of judgment.]

No. 70.

BY SHIPOWNER AGAINST FREIGHT OR FOR NOT LOADING.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed.

[*Or*, 1. That on , at , the plaintiff and defendant agreed by charter-party that the defendant should deliver to the plaintiff's ship at , on the day of 19 , five hundred tons of merchandise, which she should carry to , and there deliver, on payment of freight; and that the defendant should have days for loading, days for discharge, and days for demurrage, if required, at rupees per day.]

2. That at the time fixed by the said agreement the plaintiff was ready and willing, and offered, to receive [the said merchandise, *or*, the merchandise mentioned in the said agreement] from the defendant.

3. That the period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel.

Wherefore, the plaintiff demands judgment for rupees for demurrage and rupees additional for compensation.

C.—PLAINTS FOR COMPENSATION UPON WRONGS.

No. 71.

FOR TRESPASS ON LAND.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant entered upon certain land of the plaintiff, known as , [and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same].

[Demand of judgment.]

No. 72.

FOR TRESPASS IN ENTERING A DWELLING-HOUSE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant entered a dwelling-house of the plaintiff, called , and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling-house, and removed, took and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling-house, and kept them so expelled for a long time.

2. That the plaintiff was thereby prevented from carrying on his business and incurred expense in procuring another dwelling-house for himself and family.

[Demand of judgment.]

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 73.

FOR TRESPASS ON MOVEABLES.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant broke open ten barrels of rum belonging to the plaintiff, and emptied their contents into the street [*or,* seized and took the plaintiff's goods, that is to say, iron, rice and household furniture, *or as the case may be,* and carried away the same and disposed of them to his own use].

[*Or,* seized and took the plaintiff's cows and bullocks, and impounded them and kept them impounded for a long time.]

2. That the plaintiff was thereby deprived of the use of the cows and bullocks during that time, and incurred expense in feeding them and in getting them restored to him; and was also prevented from selling them at fair, as he otherwise would have done, and the said cows and bullocks are diminished in value to the plaintiff [*otherwise, state the injury according to the facts*].

[*Demand of judgment.*]

No. 74.

FOR THE CONVERSION OF MOVEABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , plaintiff was in possession of certain goods described in the schedule hereto annexed [*or,* of one thousand barrels of flour].

2. That on that day, at , the defendant converted the same to his own use, and wrongfully deprived the plaintiff of the use and possession of the same.

[*Demand of judgment.*]

The Schedule.

No. 75.

AGAINST A WAREHOUSEMAN FOR REFUSAL TO DELIVER GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant, in consideration of the payment to him of rupees [*or,* rupees per barrel, per month, &c.], agreed to keep in his godown [one hundred barrels of flour] and to deliver the same to the plaintiff on payment of the said sum.

2. That thereupon the plaintiff deposited with the defendant the said [hundred barrels of flour].

3. That on the day of 19 , the plaintiff requested the defendant to deliver the said goods, and tendered him rupees [*or,* the full amount of storage due thereon], but the defendant refused to deliver the same.

4. That the plaintiff was thereby prevented from selling the said goods to *E. F.* and the same are lost to the plaintiff.

[*Demand of judgment.*]

No. 76.

FOR PROCURING PROPERTY BY FRAUD.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he, the defendant, was solvent, and worth rupees over all his liabilities].

2. That the plaintiff was thereby induced to sell [and deliver] to the defendant [dry goods] of the value of rupees.

3. That the said representations were false [*or, state the particular falsehoods*] and were then known by the defendant to be so.

4. That the defendant has not paid for the said goods. [*Or, if the goods were not delivered,* That the plaintiff, in preparing and shipping the said goods and procuring their restoration, expended rupees].

[*Demand of judgment.*]

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 77.

FOR FRAUDULENTLY PROCURING CREDIT TO BE GIVEN TO ANOTHER PERSON.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , at , the defendant represented to the plaintiff that one *E. F.* was solvent and in good credit, and worth rupees over all his liabilities [*or*, that *E. F.* then held a responsible situation and was in good circumstances, and might safely be trusted with goods on credit].

2. That the plaintiff was thereby induced to sell to the said *E. F.*, [rice] of the value of rupees [on month's credit].

3. That the said representations were false and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff [*or*, to deceive and injure the plaintiff].

4. That the said *E. F.* [did not pay for the said goods at the expiration of the credit aforesaid, *or*] has not paid for the said rice, and the plaintiff has wholly lost the same by reason of the premises.

[Demand of judgment.]

No. 78.

FOR POLLUTING THE WATER UNDER THE PLAINTIFF'S LAND.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That he is, and at all the times hereinafter mentioned was, possessed of certain land called and situate in , and of a well therein, and of water in the said well, and was entitled to the use and benefit of the said well and of the said water therein, and to have certain springs and streams of water which flowed and ran into the said well to supply the same to flow or run without being fouled or polluted.

2. That on the day of 19 , the defendant wrongfully fouled and polluted the said well and the said water therein and the said springs and streams of water which flowed into the said well.

3. That by reason of the premises the said water in the said well became impure and unfit for domestic and other necessary purposes, and the plaintiff and his family are deprived of the use and benefit of the said well and water.

[Demand of judgment.]

No. 79.

FOR CARRYING ON A NOXIOUS MANUFACTURE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called , situate in .

2. That ever since the day of 19 , the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and corrupted the air, and settled on the surface of the said lands.

3. That thereby the trees, hedges, herbage and crops of the plaintiff growing on the said lands were damaged and deteriorated in value and the cattle and live-stock of the plaintiff on the said lands became unhealthy, and divers of them were poisoned and died.

4. That by reason of the premises the plaintiff was unable to depasture the said lands with cattle and sheep as he otherwise might have done, and was obliged to remove his cattle, sheep and farming-stock therefrom, and has been prevented from having so beneficial and healthy a use and occupation of the said lands as he otherwise would have had.

[Demand of judgment.]

No. 80.

FOR OBSTRUCTING A WAY.

(Title.)

A. B. the above-named plaintiff, states as follows :—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of [a house in the village of].

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

2. That he was entitled to a right of way from the said [house] over a certain field to a public highway and back again from the said highway over the said field to the said house, for himself and his servants [with vehicles, *or*, on foot] at all times of the year.

3. That on the day of 19 , defendant wrongfully obstructed the said way, so that the plaintiff could not pass [with vehicles, *or*, on foot, *or*, in any manner] along the said way [and has ever since wrongfully obstructed the same].

4. [*State special damage if any.*]

[*Demand of judgment.*]

Another Form.

1. That the defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from to so as to obstruct it.

2. That thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones [*or*, into the said trench] and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

[*Demand of judgment.*]

No. 81.

FOR DIVERTING A WATER-COURSE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of a mill situated on a [stream] known as the , in the village of , district of .

2. That by reason of such possession the plaintiff was entitled to the flow of the said stream for working the said mill.

3. That on the day of 19 , the defendant, by cutting the bank of the said stream, wrongfully diverted the water thereof, so that less water ran into the plaintiff's mill.

4. That by reason thereof the plaintiff has been unable to grind more than sacks per day, whereas, before the said diversion of water, he was able to grind sacks per day.

[*Demand of judgment.*]

No. 82.

FOR OBSTRUCTING A RIGHT TO USE WATER FOR IRRIGATION.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and was at the time hereinafter mentioned, possessed of certain lands situate, &c., and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.

2. That on the day of 19 the defendant prevented the plaintiff from taking and using the said portion of the said water as aforesaid, by wrongfully obstructing and diverting the said stream.

[*Demand of judgment.*]

No. 83.

FOR WASTE BY A LESSEE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , the defendant hired from him [the house No. , Street] for the term of .

2. That the defendant occupied the same under such hiring.

3. That during the period of such occupation the defendant greatly injured the premises [defaced the walls, tore up the floors and broke down the doors; *or otherwise specify the injuries as far as possible*].

The plaintiff prays judgment for rupees compensation.

No. 84.

FOR ASSAULT AND BATTERY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

That on the day of 19 , at , the defendant assaulted and beat him.

The plaintiff prays judgment for rupees compensation.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 85.

FOR ASSAULT AND BATTERY, WITH SPECIAL DAMAGE

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant assaulted and beat him until he became insensible.

2. That the plaintiff was thereby disabled from attending to his business for [six weeks thereafter] and was compelled to pay rupees for medical attendance, and has been ever since disabled [from using his right arm]. [*Or otherwise state the damage, as the case may be.*]

[*Demand of judgment.*]

No. 86.

FOR ASSAULT AND FALSE IMPRISONMENT.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant assaulted the plaintiff and imprisoned him for days [*or*, hours]; [*state special damage, if any, thus*:—].

2. That by reason thereof the plaintiff suffered great pain of body and mind and was exposed and injured in his credit and circumstances, and was prevented from carrying on his business and from providing for his family by his personal care and attention, and incurred expense in obtaining his liberation from the said imprisonment [*or otherwise as the case may be*].

[*Demand of judgment.*]

No. 87.

FOR INJURIES CAUSED BY NEGLIGENCE ON A RAILROAD.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , the defendants were common carriers of passengers by railway between and .

2. That on that day the plaintiff was a passenger in one of the carriages of the defendants on the said road.

3. That while he was such passenger, at [*or*, near the station of *or*, between the stations of and], a collision occurred on the said railway, caused by the negligence and unskilfulness of the defendants' servants, whereby the plaintiff was much injured [having his leg broken, his head cut, &c., *and state the special damage, if any, as*], and incurred expense for medical attendance, and is permanently disabled from carrying on his former business as [a salesman].

[*Demand of judgment.*]

[*Or thus*:— 2. That on that day the defendants by their servants so negligently and unskilfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, *&c., as in § 3.*]

No. 88.

FOR INJURIES CAUSED BY NEGLIGENT DRIVING.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. The plaintiff is a shoemaker, carrying on business at . The defendant is a merchant of .

2. On the day of , 19 , the plaintiff was walking eastward along Chowringhee, in the City of Calcutta, at about 3 o'clock in the afternoon. He was obliged to cross Harrington Street, which is a street running into Chowringhee at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof, a carriage of the defendant's, drawn by two horses, under the charge and control of the defendant's servants, was negligently, suddenly and without any warning turned at a rapid and dangerous pace out of Harrington Street into Chowringhee. The pole of the carriage struck the plaintiff and knocked him down, and he was much trampled by the horses.

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

3. By the blow and fall and trampling the plaintiff's left arm was broken, and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims rupees damages.

(Title.)

Written Statement of defendant.

1. The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, or that it was under the charge or control of the defendant's servants. The carriage belonged to [Messrs. *E. F.* and *G.H.*] of Street, Calcutta, livery stable-keepers, employed by the defendant to supply him with carriages and horses; and the person under whose charge and control the said carriage was, was the servant of the said [Messrs. *E.F.* and *G.H.*].

2. The defendant does not admit that the said carriage was turned out of Harrington Street either negligently, suddenly or without warning, or at a rapid or dangerous pace.

3. The defendant says that the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it.

4. The defendant does not au it the statements of the third paragraph of the plaint.

No. 89.

For Libel; the Words being libellous in themselves.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant published in a newspaper, called the [*or,* in a letter addressed to *E. F.*], the following words concerning the plaintiff :—

[*Set forth the words used.*]

2. That the said publication was false and malicious.

[*Demand of judgment.*]

NOTE.—If the libel was in a language not the language of the Court, set out the libel *verbatim* in the foreign language in which it was published, and then proceed thus :—" Which said words, being translated into the language, have the meaning and effect following and were so understood by the persons to whom they were so published, that is to say [*here set out a literal translation of the libel in the language of the Court*] "

No. 90.

For libel; the Words not being libellous in themselves.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the plaintiff [is, and] was, on and before the day of 19 , a merchant doing business in the city of .

2. That on the day of 19 , at , the defendant published in a newspaper, called the [*or,* in a letter addressed to *E. F.*, *or otherwise how published*], the following words concerning the plaintiff :—

["*A. B.* of this city has modestly retired to foreign lands. It is said that creditors to the amount of rupees are anxiously seeking his address.]

3. That the defendant meant thereby that [the plaintiff had absconded to avoid his creditors, and with intent to defraud them].

4. That the said publication was false and malicious.

[*Demand of judgment.*]

No. 91.

For Slander; the Words being Actionable in themselves.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant falsely and, maliciously spoke, in the hearing of *E. F.* [*or,* sundry persons], the following words concerning the plaintiff ["He is a thief"].

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

2. That in consequence of the said words the plaintiff lost his situation as in the employ of .

[*Demand of judgment.*]

No. 92.

FOR SLANDER; THE WORDS NOT BEING ACTIONABLE IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant falsely and maliciously said to one *E. F.* concerning the plaintiff : [" He is a young man of remarkably easy conscience."]

2. That the plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.

3. That in consequence of the said words [the said *F. F.* refused to employ the plaintiff as a clerk].

[*Demand of judgment.*]

No. 93.

FOR MALICIOUS PROSECUTION.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , at , the defendant obtained a warrant of arrest from [a Magistrate of the said city, *or, as the case may be*] on a charge of , and the plaintiff was arrested thereon, and imprisoned for [days, *or*, hours, and gave bail in the sum of rupees to obtain his release].

2. That in so doing the defendant acted maliciously and without reasonable or probable cause.

3. That on the day of 19 , the said Magistrate dismissed the complaint of the defendant and acquitted the plaintiff.

4. That many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him ; *or*, that, in consequence of the said arrest, the plaintiff lost his situation as clerk to one *E. F.*; *or*, that by reason of the premises the plaintiff suffered pain of body and mind, and was prevented from transacting his business, and was injured in his credit, and incurred expense in obtaining his release from the said imprisonment and in defending himself against the said complaint.

[*Demand of judgment.*]

D.—PLAINTS IN SUITS FOR SPECIFIC PROPERTY.

No. 94.

BY THE ABSOLUTE OWNER FOR THE POSSESSION OF IMMOVEABLE PROPERTY.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That *X. Y.* was the absolute owner [of the estate, *or*, share of the estate, called , situate in the district of , the Government revenue of which is rupees and the estimated value rupees, *or*, of the house No. , Street in the town of Calcutta, the estimated value of which is rupees].

2. That on the day of 19 , *Z.* illegally dispossessed the said *X. Y.* of the said estate [*or*, share, *or*, house].

3. That the said *X. Y.* has since died intestate, leaving the plaintiff, the said *A. B.*, his heir him surviving.

4. That the defendant withholds the possession of the estate [*or*, share, *or*, house] from the plaintiff.

The plaintiff prays judgment—

(1) for the possession of the said premises;

(2) for rupees compensation for withholding the same.

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

Another Form.

A. B., the above-named plaintiff, states as follows :—

1. On the day of , plaintiff, by an instrument in writing, let to the defendant a house and premises [No. 52, Russell Street, in the] for a term of five years from the day of , at the monthly rent of 300 rupees.

2. By the said instrument the defendant covenanted to keep the said house and premises in good and enantable repair.

3. The said instrument also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.

4. On the day of 19 , a month's rent became due, and on the day of 19 another month's rent became due; on the day of 19 , both had been in arrear for twenty-one days and both are still due.

5. On the same day of 19 , the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to re-instate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value. The plaintiff claims—

(1) possession of the said house and premises;

(2) rupees for arrears of rent;

(3) rupees compensation for the defendant's breach of his covenant to repair;

(4) rupees for the occupation of the house and premises from the day of 19 to the day of recovering possession.

No. 95.

BY THE TENANT.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That one *E. F.* is the absolute owner of [a piece of land in the town of Calcutta bounded as follows:], the estimated value of which is rupees

2. That on the day of 19 , the said *E. F.* let the said premises to the plaintiff for years, from .

3. That the defendant withholds the possession thereof from the plaintiff.

[*Demand of judgment.*]

No. 96.

FOR MOVEABLE PROPERTY WRONGFULLY TAKEN.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of . 19 , plaintiff owned [*or*, was possessed of] one hundred barrels of flour the estimated value of which is rupees.

2. That on that day, at , the defendant took the same.

The plaintiff prays judgment—

(1) for the possession of the said goods, or for rupees in case such possession cannot be had;

(2) for rupees compensation for the detention thereof.

No. 97.

FOR MOVEABLES WRONGFULLY DETAINED.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , plaintiff owned [*or state facts showing a right to the possession*] the goods mentioned in the schedule hereto annexed [*or describe the goods*], the estimated value of which is rupees.

2. That from that day until the commencement of this suit the defendant has detained the same from the plaintiff.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

3. That before the commencement of this suit, to wit, on the day of 19 the plaintiff demanded the same from the defendant, but he refused to deliver them.

The plaintiff prays judgment—

(1) for the possession of the said goods, or for rupees, in case such possession cannot be had ;

(2) for rupees compensation for the detention thereof.

The Schedule.

No. 98.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFEREE WITH NOTICE.

(Title.)

A. B., the above-named plaintiff, states a follows :—

1. That on the day of 19 , at , the defendant [*C. D.*], for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he was solvent, and worth rupees over all his liabilities].

2. That the plaintiff was thereby induced to sell and deliver to the said *C. D.* [one hundred boxes of tea], the estimated value of which is rupees.

3. That the said representations were false, and were then known by the said *C. D.* to be so. [*Or*, That, at the time of making the said representations, the said *C. D.* was insolvent, and knew himself to be so.]

4. That the said *C. D.* afterwards transferred the said goods to the defendant *E. F.* without consideration [*or*, who had notice of the falsity of the representation].

The plaintiff prays judgment—

(1) for the possession of the said goods, or for rupees, in case such possession cannot be had ;

(2) for rupees compensation for the detention thereof.

E.—PLAINTS IN SUITS FOR SPECIAL RELIEF.

No. 99.

FOR RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 19 , the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at , contained [ten bíghas]

2. That the plaintiff was thereby induced to purchase the same at the price of rupees in the belief that the said representation was true, and signed an instrument of agreement, of which a copy is hereto annexed. But no conveyance of the same has been executed to him.

3. That on the day of 19 the plaintiff paid the defendant rupees as part of such purchase-money.

4. That the said piece of ground contained in fact only [five bíghas].

The plaintiff prays judgment—

(1) for rupees, with interest from the day of 19 ;

(2) that the said agreement of purchase be delivered up and cancelled.

No. 100.

FOR AN INJUNCTION RESTRAINING WASTE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That plaintiff is the absolute owner of [*describe the property*].

2. That the defendant is in possession of the same under a lease from the plaintiff.

3. That the defendant has [cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale] without the consent of the plaintiff.

The plaintiff prays judgment that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

[*Pecuniary compensation might also be prayed.*]

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 101.

FOR ABATEMENT OF A NUISANCE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of [the house No. , Street, Calcutta].

2. That the defendant is, and at all the said times was, the absolute owner of [a plot of ground in the same street].

3. That on the day of 19 , the defendant erected upon his said plot a slaughter-house, and still maintains the same ; and from that day until the present time has continually caused cattle to be brought and killed there [and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff].

4. That [the plaintiff has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same].

The plaintiff prays judgment that the said nuisance be abated.

No. 102.

FOR AN INJUNCTION AGAINST THE DIVERSION OF A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

[*As in Form No. 81.*]

The plaintiff prays judgment that the defendant be restrained by injunction from diverting the water as aforesaid.

No. 103.

FOR RESTORATION OF MOVEABLE PROPERTY THREATENED WITH DESTRUCTION, AND FOR AN INJUNCTION.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That plaintiff is, and at all times hereinafter mentioned was, the owner of [a portrait of his grandfather which was executed by an eminent painter], and of which no duplicate exists [*or, state any facts showing that the property is of a kind that cannot be replaced by money*].

2. That on the day of 19 , he deposited the same for safe keeping with the defendant.

3. That on the day of 19 , he demanded the same from the defendant and offered to pay all reasonable charges for the storage of the same.

4. That the defendant refuses to deliver the same to the plaintiff and threatens to conceal, dispose of, cut or injure the same if required to deliver it up.

5. That no pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the [painting].

The plaintiff prays judgment—

(1) that the defendant be restrained by injunction from disposing of, injuring or concealing the said [painting] ;

(2) that he return the same to the plaintiff.

No. 104.

INTERPLEADER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That before the date of the claims hereinafter mentioned one *G. H.* deposited with the plaintiff [*describe the property*] for [safe keeping].

2. That the defendant *C. D.* claims the same [under an alleged assignment thereof to him from the said *G. H.*].

3. That the defendant *E. F.* also claims the same [under an order of the said *G. H.* transferring the same to him].

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

4. That the plaintiff is ignorant of the respective rights of the defendants.

5. That he has no claim upon the said property, and is ready and willing to deliver it to such persons as the Court shall direct.

6. That this suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment—

(1) that the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto ;

(2) that they be required to interplead together concerning their claims to the said property ;

[(3) that some person be authorized to receive the said property pending such litigation ;]

(4) that upon delivering the same to such [person] the plaintiff be discharged from all liability to either of the defendants in relation thereto.

No. 105.

ADMINISTRATION BY CREDITOR.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. *E. F.*, late of , was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of [*here insert nature of debt and security, if any*].

2 The said *E. F.* made his will, dated the day of , and thereof appointed *C. D.* executor [*or*, devised his estate in trust, &c., *or*, died intestate, *as the case may be*].

3. The said will was proved by the said *C. D.* [*or*, letters of administration were granted, etc.].

4. The defendant has possessed himself of the moveable [and immoveable, *or*, the proceeds of the immoveable] property of the said *E. F.*, and has not paid the plaintiff his said debt.

5. The said *E. F.* died on or about the day of .

6. The plaintiff prays that an account may be taken of the moveable [and immoveable] property of the said *E. F.*, deceased, and that the same may be administered under the decree of the Court.

No. 106.

ADMINISTRATION BY SPECIFIC LEGATEE.

(Title.)

[*Alter Form No. 105 thus* :—]

[*Omit paragraph 1 and commence paragraph 2*] *E. F.*, late of , duly made his last will, dated the day of , and thereof appointed *C. D.* executor, and by such will bequeathed to the plaintiff [*here state the specific legacy*].

For paragraph 4 substitute—

The defendant is in possession of the moveable property of the said *E. F.*, and, amongst other things, of the said [*here name the subject of the specific bequest*].

For the commencement of paragraph 6 substitute—

The plaintiff prays that the defendant may be ordered to deliver to him the said [*here name the subject of the specific bequest*], or that, &c.

No. 107.

ADMINISTRATION BY PECUNIARY LEGATEE.

(Title.)

[*Alter Form No. 105 thus* :—]

[*Omit paragraph 1 and substitute for paragraph 2*] *E. F.*, late of , duly made his last will, dated the day of , and thereof appointed *C. D.* executor, and by such will bequeathed to the plaintiff a legacy of rupees.

In paragraph 4 substitute " legacy " *for* " debt."

Another Form.

Between *E. F.* ... ... *Plaintiff*,

and

G. H. ... ... *Defendant.*

E. F., the above-named plaintiff, states as follows :—

1. *A. B.* of *K.* in the duly made his last will, dated the [day of], whereby he appointed the defendant and *M. N.* [who died in the testator's lifetime] executors thereof, and bequeathed his property, whether moveable or immoveable, to his executors in trust. to pay the rents and income

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain twenty-one, or a daughter who should attain that age or marry, upon trust as to his immoveable property for the person who would be the testator's heir-at-law, and as to his moveable property for the persons who would be the testator's next-of-kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The testator died on the day of , and his will was proved by the defendant on the day of . The plaintiff has not been married.

3. The testator was at his death entitled to moveable and immoveable property; the defendant entered into the receipt of the rents of the immoveable property and got in the moveable property; he has sold some part of the immoveable property.

The plaintiff claims—

(1) to have the moveable and immoveable property of *A. B.* administered in this Court, and for that purpose to have all proper directions given and accounts taken;

(2) such further or other relief as the nature of the case may require.

Between *E. F.* ... ... *Plaintiff,*

and

G. H. ... ... *Defendant.*

Written Statement of Defendant.

1. *A. B.*'s will contained a charge of debts; he died insolvent; he was entitled at his death to some immoveable property which the defendant sold, and which produced the nett sum of rupees , and the testator had some moveable property which the defendant got in, and which produced the nett sum of rupees.

2. The defendant applied the whole of the said sums and the sum of rupees which the defendant received from rents of the immoveable property in the payment of the funeral and testamentary expenses and some of the debts of the testator.

3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the day of , and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer.

4. The defendant submits that the plaintiff ought to pay the costs of this suit.

No. 108.

EXECUTION OF TRUSTS.

IN THE COURT OF , AT .

Civil Suit, No. .

A. B. of ... ... *Plaintiff,*

against

C. D. of , the beneficiary [*or*, one of the beneficiaries]... ... *Defendant.*

A. B., the above-named plaintiff, states as follows:—

1. That he is one of the trustees under an instrument of settlement bearing date on or about the day of made upon the marriage of *E. F.* and *G. H.*, the father and mother of the defendant [*or*, an instrument of assignment of the estate and effects of *E. F.* for the benefit of *C. D.*, the defendant, and the other creditors of *E. F.*].

2. The said *A. B.* has taken upon himself the burden of the said trust, and is in possession of [*or* of the proceeds of] the moveable and immoveable property conveyed [*or* assigned] by the before-mentioned deed.

3. The said *C. D.* claims to be entitled to a beneficial interest under the before-mentioned deed.

4. The plaintiff is desirous to account for all the rents and profits of the said immoveable property [and the proceeds of the sale of the said, *or*, of part of the said, immoveable property, *or*, moveable, *or*, the proceeds of the sale of, *or*, of part of, the said moveable, property, *or*, the profits accruing to the plaintiff as such trustee in the execution of the said trust]; and he prays that the Court will take the accounts of the said trust, and also that the whole of the said trust estate may be administered in the Court for the benefit of the said *C. D.*, the defendant, and all other persons who may be interested in such administration, in the presence of the said *C. D.* and such other persons so interested as the Court may direct, or that the said *C. D.* may show good cause to the contrary.

[*N. B.—Where the suit is by a beneficiary, the plaint may be modelled, mutatis mutandis, on the plaint by a legatee.*]

No. 109.

FORECLOSURE OR SALE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. By a mortgage-deed dated the day of 19 , a house with the garden and appurtenances, situated within the jurisdiction of this Court, were conveyed by the

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

defendant to him the plaintiff, his heirs [*or* executors, administrators,] and assigns, for securing the principal sum of Rs. together with interest thereon at the rate of Rs. per cent. per annum, subject to redemption upon payment by the said defendant of the said principal and interest at a day long since past.

2. There is now due from the defendant to the plaintiff the sum of Rs. for principal and interest on the said mortgage.

3. The plaintiff prays (*a*) that the Court will order the defendant to pay him the said sum of Rs. with such further interest as may accrue between the filing of the plaint and the day of payment, and also the costs of this suit, on some day to be named by the Court, and in default that the right to redeem the said mortgaged premises may be foreclosed and the plaintiff placed in possession of the same premises; or (*b*) that the said premises may be sold, and the proceeds applied in and towards the payment of the amount of the said principal, interest and costs; and (*c*) that, if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of six per cent. per annum until realization; and (*d*) that for that purpose all proper directions may be given and accounts taken by the Court.

No. 110.

REDEMPTION.

(*Title.*)

[*Alter Form No. 109 thus:*—]

Transpose parties and also the facts in paragraph 1.

For paragraph 2 substitute—

2. There is now due from the plaintiff to the defendant, for principal and interest on the said mortgage, the sum of Rs. , which the plaintiff is ready and willing to pay to the defendant, of which the defendant, before filing this plaint, had notice.

For paragraph 3 substitute—

The plaintiff prays that he may redeem the said premises and that the defendant may be ordered to re-convey the same to him upon payment of the said sum of Rs. and interest, with such costs (if any), as the Court may order, upon a day to be named by the Court, and that the Court will give all proper directions for the preparation and execution of such re-conveyance and doing such other acts as may be necessary to put him into possession oft he said premises, freed from the said mortgage.

No. 111.

SPECIFIC PERFORMANCE. (No. 1.)

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. By an agreement dated the day of and signed by the above-named defendant, *C. D.*, he, the said *C. D.*, contracted to buy of [*or*, sell to] him certain immoveable property therein described and referred to, for the sum of rupees.

2. He has applied to the said *C. D.* specifically to perform the said agreement on his part, but he has not done so.

3. The said *A. B.* has been and still is ready and willing specifically to perform the agreement on his part of which the said *C. D.* has had notice.

4. The plaintiff prays that the Court will order the said *C. D.* specifically to perform the said agreement and to do all acts necessary to put the said *A. B.* in full possession of the said property [*or*, to accept a conveyance and possession of the said property] and to pay the costs of the suit.

[*N. B.—In suits for delivery up, to be cancelled, of any agreement, omit paragraphs 2 and 3, and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled—such as that the plaintiff signed it by mistake, under duress, or by the fraud of the defendant—and alter the prayer according to the relief sought.*]

No. 112.

SPECIFIC PERFORMANCE. (No. 2.)

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 19 , the defendant was absolutely entitled to certain moveable property described in the agreement hereto annexed.

2. That on the same day the plaintiff and defendant entered into an agreement, under their hands, a copy of which is hereto annexed.

3. That on the day of 19 , the plaintiff tendered rupees to the defendant, and demanded a conveyance of the said property.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

4. That on the day of 19 , the plaintiff again demanded such conveyance. [*Or,* That the defendant refused to convey the same to the plaintiff.]

5. That the defendant has not executed such conveyance.

6. That the plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment—

(1) that the defendant execute to the plaintiff a sufficient conveyance of the said property [*following the terms of the agreement*];

(2) for rupees compensation for withholding the same.

No. 113.

PARTNERSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. He and the said *C. D.*, the defendant, have been for the space of years [*or* months] last past carrying on business together at within the jurisdiction of this Court, under certain articles of partnership in writing, signed by them respectively [*or,* under a certain deed sealed and executed by them respectively, *or,* under a verbal agreement between them, the said plaintiff and defendant].

2. Diverse disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3. The plaintiff desires to have the said partnership dissolved and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles [*or,* deed, *or,* agreement].

4. The plaintiff prays the Court to decree a dissolution of the said partnership, and that the accounts of the said partnership-trading may be taken by the Court, and the assets thereof realized, and that each party may be ordered to pay into Court any balance due from him upon such partnership-account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the suit may be paid, out of the partnership-assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant according to the terms of the said articles [*or,* deed, *or,* agreement], or that if the said assets shall prove insufficient, he the plaintiff and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities and costs. And to give such other relief as the Court shall think fit.

This plaint was filed by of , pleader for the plaintiff [*or* by].

[*N. B.—In suits for winding-up of any partnership, omit the prayer for dissolution; but instead thereof insert a paragraph stating the facts of the partnership having been dissolved.*]

No. 114.

FORMS OF CONCISE STATEMENTS.

[Code of Civil Procedure, 190 , section 58.]

Money lent.	The plaintiff's claim is	rs. for money lent [and interest].
Several demands.	The plaintiff's claim is good sold, and interest.	rs., whereof rs. is for the price of rs. for money lent, and rs. for
Rent.	The plaintiff's claim is	rs. for arrears of rent.
Salary, etc.	The plaintiff's claim is *as the case may be*].	rs. for arrears of salary as a clerk [*or*
Interest.	The plaintiff's claim is	rs. for interest upon money lent.
General average.	The plaintiff's claim is tion.	rs. for a general average contribu-
Freight, etc.	The plaintiff's claim is	rs. for freight and demurrage.
Banker's balance.	The plaintiff's claim is defendant as a banker.	rs. for money deposited with the
Fees, etc., as pleader.	The plaintiff's claim is money expended] as a pleader.	rs. for fees for work done [and rs.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

Commission.	The plaintiff's claim is rs. for commission earned as [*state character—as* auctioneer, cotton-broker, etc.]
Medical attendance.	The plaintiff's claim is rs. for medical attendance.
Return of premium.	The plaintiff's claim is rs. for a return of premiums paid upon policies of insurance.
Warehouse rent.	The plaintiff's claim is rs. for the warehousing of goods.
Carriage of goods.	The plaintiff's claim is rs. for the carriage of goods by railway.
Use and occupation of house.	The plaintiff's claim is rs. for the use and occupation of a house.
Hire of goods.	The plaintiff's claim is rs. for the hire of [furniture].
Work done.	The plaintiff's claim is rs. for work done as a [surveyor]
Board and lodging.	The plaintiff's claim is rs. for board and lodging.
Schooling.	The plaintiff's claim is rs. for the [board, lodging and] tuition of *X. Y.*
Money received.	The plaintiff's claim is rs. for money received by the defendant as pleader [*or* factor, *or* collector, *or etc.*] of the plaintiff.
Fees of office.	The plaintiff's claim is rs. for fees received by the defendant under colour of the office of .
Money overpaid.	The plaintiff's claim is rs. for a return of money overcharged for the carriage of goods by railway.
	The plaintiff's claim is rs. for a return of fees overcharged by the defendant as .
Return of money by stake-holder.	The plaintiff's claim is rs. for a return of money deposited with the defendant as stake-holder.
Money won from stake-holder.	The plaintiff's claim is rs. for money entrusted to the defendant as stake-holder, and become payable to plaintiff.
Money entrusted to agent.	The plaintiff's claim is rs. for a return of money entrusted to the defendant as agent of the plaintiff.
Money obtained by fraud.	The plaintiff's claim is rs. for a return of money obtained from the plaintiff by fraud.
Money paid by mistake.	The plaintiff's claim is rs. for a return of money paid to the defendant by mistake.
Money paid for consideration which has failed.	The plaintiff's claim is rs. for a return of money paid to the defendant for [work to be done, *or*, work left undone ; or a bill to be taken up, *or*, a bill not taken up ; *or etc.*]
	The plaintiff's claim is rs. for a return of money paid as a deposit upon shares to be allotted.
Money paid by surety for defendant.	The plaintiff's claim is rs. for money paid for the defendant as his surety.
Rent paid.	The plaintiff's claim is rs. for money paid for rent due by the defendant.
Money paid on accommodation bill.	The plaintiff's claim is rs. upon a bill of exchange accepted [*or*, indorsed] for the defendant's accommodation.
Contribution by surety.	The plaintiff's claim is rs. for a contribution in respect of money paid by the plaintiff as surety.
By co-debtor.	The plaintiff's claim is rs. for a contribution in respect of a joint debt of the plaintiff and the defendant paid by the plaintiff.
Money paid for calls.	The plaintiff's claim is rs. for money paid for calls upon shares, against which the defendant was bound to indemnify the plaintiff.
Money payable under award.	The plaintiff's claim is rs. for money payable under an award.
Life-policy.	The plaintiff's claim is rs. upon a policy of insurance upon the life of *X. Y.*, deceased.
Money-bond.	The plaintiff's claim is rs. upon a bond to secure payment of rs. and interest.
Foreign judgment.	The plaintiff's claim is rs. upon a judgment of the Court in [the Empire of Russia].

The Code of Civil Procedure, 190 .

(*The Third Schedule.*)

THE THIRD SCHEDULE—*continued.*

Bills of exchange, etc.

The plaintiff's claim is rs. upon a cheque drawn by the defendant.

The plaintiff's claim is rs. upon a bill of exchange accepted [*or* drawn, *or* indorsed] by the defendant.

The plaintiff's claim is rs. upon a promissory note made [*or* indorsed] by the defendant.

The plaintiff's claim is rs. against the defendant *A. B.* as acceptor, and against the defendant *C. D.* as drawer [*or* indorser] of a bill of exchange.

Surety.

The plaintiff's claim is rs. against the defendant as surety for the price of goods sold.

The plaintiff's claim is rs. against the defendant *A. B.* as principal, and against the defendant *C. D.* as surety, for the price of goods sold [*or* for arrears of rent, *or* for money lent, *or* for money received by the defendant *A. B.* as traveller for the plaintiff, *or &c.*].

Calls.

The plaintiff's claim is rs. for calls upon shares.

Indorsement for costs, &c.

[*Add to the above forms*] and rs. for costs ; and if the amount claimed be paid to the plaintiff or his pleader within days [*or if the summons is to be served out of the jurisdiction, insert the time for appearance limited by the order*] from the service hereof, further proceedings will be stayed.

Damages and other Claims.

Agent, etc.

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.

The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and rs. for arrears of wages].

The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.

The plaintiff's claim is for damages for breach of duty as factor [*or &c.,*] of the plaintiff [and rs. for money received as factor, *or etc.*]

Apprentices.

The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of *X. Y.* to the defendant [*or* plaintiff].

Arbitration.

The plaintiff's claim is for damages for non-compliance with the award of *X. Y.*

Assault, etc.

The plaintiff's claim is for d amages for assault [and false imprisonment, and for malicious prosecution].

By husband and wife.

The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff, *C. D.*

Against husband and wife.

The plaintiff's claim is for damages for assault by the defendant *C. D.*

Pleader.

The plaintiff's claim is for damages for injury by the defendant's negligence as pleader of the plaintiff.

Bailment.

The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same].

Pledge.

The plaintiff's claim is for damages for negligence in the keeping of goods pawned [and for wrongfully detaining the same].

Hire.

The plaintiff's claim is for damages for negligence in the custody of furniture [*or* a carriage] lent on hire [and for wrongfully, *&c.*].

Banker.

The plaintiff's claim is for damages for wrongfully neglecting [*or* refusing] to pay the plaintiff's cheque.

Bill.

The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's drafts.

Bond.

The plaintiff's claim is upon a bond conditioned not to carry on the trade of a .

Carrier.

The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway.

The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.

Charter-party.

The plaintiff's claim is for damages for breach of charter-party of ship [*Mary*].

Claim for return of goods; damages.

The plaintiff's claim is for return of household furniture, [*or*, &c.] or their value, and for damages for detaining the same.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

Damages for depriving of goods. The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, &c.

Defamation. The plaintiff's claim is for damages for libel.

The plaintiff's claim is for damages for slander.

Wrongful distress. The plaintiff's claim is for damages for improperly distraining.

[*This Form shall be sufficient whether the distress complained of be wrongful or excessive or irregular.*]

Ejectment. The plaintiff's claim is to recover possession of a house, No. in Street, or of a farm called Blackacre, situate in the of in the of

To establish title and recover rents. The plaintiff's claim is to establish his title to [*here describe property*] and to recover the rents thereof.

[*The two previous Forms may be combined.*].

Fishery. The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing.

Fraud. The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [*or* a business, *or* shares, *or &c.*].

The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of *A. B.*

Guarantee. The plaintiff's claim is for damages for breach of a contract of guarantee for *A. B.*

The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain.

Insurance. The plaintiff's claim is for a loss under a policy upon the ship [*Royal Charter*], and freight of cargo [*or* for return of premiums].

[*This Form shall be sufficient whether the loss claimed be total or partial.*]

Fire-insurance. The plaintiff's claim is for a loss under a policy of fire-insurance upon house and furniture.

The plaintiff's claim is for damages for breach of a contract to insure a house.

Landlord and tenant. The plaintiff's claim is for damages for breach of a contract to keep a house in repair.

The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm.

Medical man. The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.

Mischievous animal. The plaintiff's claim is for damages for injury by the defendant's dog.

Negligence. The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants.

The plaintiff's claim is for damages for injury to the plaintiff while a passenger on the defendant's railway by the negligence of the defendant's servants.

The plaintiff's claim is for damages for injury to the plaintiff at the defendant's railway-station from the defective condition of the station.

Act XIII of 1855. The plaintiff's claim is as executor of *A. B.* deceased, for damages for the death of the said *A. B.* from injuries received while a passenger on the defendant's railway, by the negligence of the defendant's servants.

Promise of marriage. The plaintiff's claim is for damages for breach of promise of marriage.

Sale of goods. The plaintiff's claim is for damages for breach of contract to accept and pay for goods.

The plaintiff's claim is for damages for non-delivery [*or* short delivery, *or* defective quality, *or other breach of contract of sale*] of cotton [*or etc.*].

The plaintiff's claim is for damages for breach of warranty of a horse.

Sale of land. The plaintiff's claim is for damages for breach of a contract to sell [or purchase] land.

The plaintiff's claim is for damages for breach of a contract to let [*or* take] a house.

The plaintiff's claim is for damages for breach of a contract to sell [*or* purchase] the lease, with good-will, fixtures and stock-in-trade of a public house.

The plaintiff's claim is for damages for breach of covenant for title [*or* for quiet enjoyment, *or etc.*] in a conveyance of land.

Trespass on land. The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [*or* cutting his grass, *or* felling his timber, *or* pulling down his fences, *or* removing his gate, *or* using his road or path, *or* crossing his field, *or* depositing sand there, *or* carrying away gravel from thence, *or* carrying away stones from his river]

The Code of Civil Procedure 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [*or* house, *or* mine].

Way — The plaintiff's claim is for damages for wrongfully obstructing a way [public highway, *or* private way].

Water-course, etc. — The plaintiff's claim is for damages for wrongfully diverting [or obstructing, *or* polluting, *or* diverting water from] a water-course.

The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [*or* into the plaintiff's mine].

The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.

Pasture. — The plaintiff's claim is for damages for the infringement of the plaintiff's right of pasture.

[*This form shall be sufficient whatever the nature of the right to pasture be.*]

Light. — The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.

Patent. — The plaintiff's claim is for damages for the infringement of the plaintiff's patent.

Copyright. — The plaintiff's claim is for damages for the infringement of the plaintiff's copyright.

rade-mark. — The plaintiff's claim is for damages for wrongfully using [*or* imitating] the plaintiff's trade-mark.

Work. — The plaintiff's claim is for damages for breach of a contract to build a ship [*or* to repair a house, &c.].

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff to build a ship, etc.

Nuisance. — The plaintiff's claim is for damages to his house, trees, crops, etc., caused by noxious vapours from the defendant's factory [*or*, etc.].

The plaintiff's claim is for damages from nuisance by noise from the defendant's works [*or* stables, *or*, etc.].

Injunction. — [*Add to indorsement*]: —and for an injunction.

[*Add to indorsement where claim is to land, or to establish title, or both*] :—

Mesne profits. — and for mesne profits.

Arrears of rent. — and for an account of rents or arrears of rent.

Breach of covenant. — and for breach of covenant for [repairs].

1. Creditor to administer Estate.

The plaintiff's claim is as a creditor of *X. Y.*, of , deceased, to have the moveable and immoveable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the administrator of the said *X. Y.* [and the defendants *E. F.* and *G. H.* as his co-heirs at law].

2. Legatee to administer Estate.

The plaintiff's claim is as a legatee under the will dated the day of 19 , of *X. Y.*, deceased, to have the moveable and immoveable property of the said *X. Y.* administered. The defendant *C. D.* is sued as the executor of the said *X. Y.* [and the defendants *E. F.* and *G. H.* as his devisees].

3. Partnership.

The plaintiff's claim is to have an account taken of the partnership dealings between the plaintiff and defendant [under articles of partnership dated the day of], and to have the affairs of the partnership wound up.

4. By Mortgagee.

The plaintiff's claim is to have an account taken of what is due to him for principal, interest and costs on a mortgage dated the day of made between [*parties*] [*or*, by deposit of title-deeds], and that the mortgage may be enforced by foreclosure or sale.

5. By Mortgagor.

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated and made between [*parties*], and to redeem the property comprised therein.

6. Raising Portions.

The plaintiff's claim is that the sum of Rs. which by a deed of settlement, dated was provided for the portions of the younger children of may be raised.

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

7. Execution of Trusts.

The plaintiff's claim is to have the trusts of an indenture dated and made between [*parties*] carried into execution.

8. Cancellation or Rectification.

The plaintiff's claim is to have a deed dated and made between [*parties*] set aside or rectified.

9. Specific Performance.

The plaintiff's claim is for specific performance of an agreement dated the day of for the sale by the plaintiff to the defendant of certain [freehold] hereditaments at

No. 115.

PROBATE.

1. *By an executor or legatee propounding a will in solemn form.*

The plaintiff claims to be executor of the last will, dated the day of , of *C. D.*, late of , deceased, who died on the day of , and to have the said will established. This summons is issued against you as one of the next-of-kin of the said deceased [*or, as the case may be*].

2. *By an executor or legatee of a former will, or a next-of-kin, &c., of the deceased, seeking to obtain the revocation of a probate granted in common form.*

The plaintiff claims to be executor of the last will, dated the day of , of *C. D*, late of , deceased, who died on the day of , and to have the probate of a pretended will of the said deceased, dated the day of , revoked. This summons is issued against you as the executor of the said pretended will [*or, as the case may be*].

3. *By an executor or legatee of a will when letters of administration have been granted as in an intestacy.*

The plaintiff claims to be executor of the last will of *C. D.*, late of , deceased, who died on the day of , dated the day of .

The plaintiff claims that the grant of letters of administration of the estate of the said deceased obtained by you should be revoked, and probate of the said will granted to him.

4. *By a person claiming a grant of administration as a next-of-kin of the deceased, but whose interest as next-of-kin is disputed.*

The plaintiff claims to be the brother and sole next-of-kin of *C. D.*, of , deceased, who died on the day of , intestate, and to have as such a grant of administration to the personal estate of the said intestate. This writ is issued against you because you have entered a caveat, and have alleged that you are the sole next-of-kin of the deceased [*or, as the case may be*].

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

F.—MISCELLANEOUS.

No. 116,

Section 57B of the Code of Civil Procedure, 190 .

COURT of the of holden at

REGISTER OF CIVIL SUITS in the year 19 .

Date of presentation of plaint.	No. of suit.	PLAINTIFF.			DEFENDANT.			CLAIM.			APPEARANCE.			JUDGMENT.			APPEAL.		EXECUTION.					RETURN OF EXECUTION.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the cause of action accrued.	Day *and hour* for parties to appear.	Plaintiff.	Defendant.	Date.	For whom.	For what, or amount.	Date of appeal.	Judgment in appeal.	Date of application.	Date of order.	Against whom.	For what, and amount if money.	Amount of costs.	Amount paid into Court.	Arrested.	Minute of other Return than Payment or Arrest, and date of every Return.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 117.

SUMMONS FOR DISPOSAL OF SUIT.

Sections 64 and 68 of the Code of Civil Procedure, 190 .

(*Title.*)

To

dwelling at

WHEREAS

has instituted a suit against you for

you are hereby summoned to appear in this Court in person or by a duly authorized pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on the day of 19 , at o'clock in the noon, to answer the above-named plaintiff; and, as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day; and you are hereby required to take notice that, in default of your appearance on the day before-mentioned, the suit will be heard and determined in your absence; and you will bring with you, or send by your pleader, , which the plaintiff desires to inspect, and any documents on which you intend to rely in support of your defence.

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have summons from this Court to compel the attendance of any witness, and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

GIVEN under my hand and the seal of the Court, this day of 19

L. S.

Judge.

NOTE.—*If written statements are required, say*—You are [*or* such a party is, *as the case may be*] required to put in a written statement by the day of .

No. 118.

SUMMONS FOR SETTLEMENT OF ISSUES.

Sections 64 and 68 of the Code of Civil Procedure, 190 .

(*Title.*)

To

dwelling at

WHEREAS

has instituted a suit against you for

you are hereby summoned to appear in this Court in person or by a duly authorized pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on , the day of 19 , at o'clock in the noon, to answer the above-named plaintiff; and you are hereby required to notice that, in default of your appearance on the day before-mentioned, the issues will be settled in your absence; and you will bring with you, or send by your pleader, , which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

NOTE—1. Should you apprehend your witnesses will not attend of their own accord, you can have summonses from this Court to compel the attendance of any witness, and the production of any document that you have a right to call on the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

NOTE.—*If written statements are required, say*—You are [*or* such a party is, *as the case may be*] required to put in a written statement by the day of .

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 119.

SUMMONS TO APPEAR.

Section 68 of the Code of Civil Procedure, 190 .

No. of Suit.

IN THE COURT OF AT

Plaintiff.

Defendant.

To

(Name, description and address.)

WHEREAS [*here enter the name, description and address of the plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the register*]: you are hereby summoned to appear in this Court in person on the day of at [*place*] at the hour of [*if not specially required to appear in person, state—*"in person or by a pleader of the Cour duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions "] to answer the above-named plaintiff [*if the summons be for the final disposal of the suit, this further direction shall be added here :* "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day "]; and you are hereby required to take notice that, in default of your appearance on the day and at the hour before-mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*], which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 120.

ORDER FOR TRANSMISSION OF SUMMONS FOR SERVICE IN THE JURISDICTION OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

The day of 19 .

WHEREAS it is stated in the plaint that , the defendant in the above suit , is at present residing in , but that the right to sue accrued within the jurisdiction of this Court: it is ordered that a summons returnable on the day of 19 be forwarded to [*or* delivered to the plaintiff for presentation in] the Court of for service on the said defendant, with a duplicate of this proceeding.

L. S.

Judge.

No. 121.

TO ACCOMPANY RETURNS OF SUMMONS OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19 .

The day of 19 .

A. B. of

against

C. D.

Read the proceeding from the forwarding [*or* delivering to the plaintiff for presentation in this Court] for service on in civil No. of that Court,

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

Read Bailiff's endorsement on the back of the process stating that the
and proof of the above having been duly taken by me on the [oath *or*] affirmation of
and it is ordered that the
be returned to the with a copy of this proceeding.

L. S.

Judge.

NOTE.—This form will be applicable to process other than summons, the service of which may have to be effected in the same manner.

No. 122.

DEFENDANT'S STATEMENT.

Section 110 of the Code of Civil Procedure, 190 .

(*Title.*)

I, the undersigned defendant [*or* one of the defendants], disclaim all interest under the will of the said *E. F.* in the plaint, named [*or*, as heir-at-law, *or*, as next-of-kin, *or*, one of the next-of-kin, of *E. F.*, deceased, in the said plaint named].

Or, I, the undersigned defendant, state that I admit [*or* deny] [*here repeat in the language of the plaint the statements admitted or denied*].

Or, I, the undersigned defendant, submit that, upon the facts stated in the plaint, it does not appear that there is any agreement which can be legally enforced [*or*, that it appears upon the said plaint that I am jointly liable with one *E. F.*, who is not a party to the suit, and not severally liable as by the plaint appears, *or*, that it appears by the said plaint that *G. H.* should have been a joint-plaintiff with the said *A. B.* in the said suit, *or as the case may be*].

Or, that the plaintiff has conveyed his interest in the said mortgage [*or* right to redeem] to one *I J.*, [*or*, that I have conveyed or assigned to *H. L.* by way of further charge for securing the sum of Rs. the right to redeem in the property sought by the suit to be foreclosed].

Or, that since the dissolution of the partnership the plaintiff has executed an instrument, whereby the plaintiff covenants to discharge all debts and liabilities of the partnership, and generally to release me from all claims and liabilities either by or to himself and others in respect of the said partnership-trading [*or as the case may be*].

2. [***Where the defendant intends to rely upon documents in his possession or power in support of his case***] The documentary evidence of every description which is in my possession or power and upon which I intend to rely *in support of* my case is as follows, namely [***describe the documents***].

Signed *C. D.*,
Defendant.

No. 123.

INTERROGATORIES.

Section 121 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

Civil Suit, No. of 19 .

A. B.
against
C. D., *E. F.* and *G. H.*

Interrogatories on behalf of the above-named *A. B.* [*or* *C. D.*] for the examination of the above-named *E. F.* and *G. H.* [*or A. B.*]

1. Did not, &c.
2. Has not, &c.

The defendant *E. F.* is required to answer the interrogatories numbered .
The defendant *G. H.* is required to answer the interrogatories numbered .

No. 124.

FORM OF NOTICE TO PRODUCE DOCUMENTS.

Section 131 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

Civil Suit, No. of 19 .

A. B.
against
C. D.

Take notice that the plaintiff [*or* defendant] requires you to produce for his inspection the following documents referred to in your plaint [*or* written statement, *or* affidavit], dated the day of 19 .

Describe documents required.

X. Y., Pleader for the plaintiff [*or* the defendant].

To *Z.*,
Pleader for the defendant [*or* plaintiff].

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 125.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

Sections 159 and 163 of the Code of Civil Procedure, 190 .

(*Title.*)

To

WHEREAS your attendance is required to on behalf of the in the above cause, you are hereby required [personally to appear before this Court] on the day of 19 , at the hour of [and] to bring with you or to send to this Court

A sum of Rs. , being your travelling and other expenses and subsistence-allowance for one day, is herewith sent. If you fail to comply with this order without lawful excuse, you will be subject to the consequences of non-attendance laid down in sections 168 and 169 of the Code of Civil Procedure, 190 .

NOTICE—(1) If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be produced in this Court on the day and hour aforesaid.

(2) If you are to be detained beyond the day aforesaid, a sum of Rs. will be tendered to you for each day's attendance beyond the day specified.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 126.

Another Form.

No. of Suit.

IN THE COURT OF AT

Plaintiff.
Defendant.

To

[*Name, description and address.*]

YOU are hereby summoned to appear in this Court in person on the day of at 19 , at the hour of , to give evidence on behalf of the plaintiff [*or* the defendant] in the above-mentioned suit, and to produce [*here describe with convenient certainty any document the production of which may be required. If the summons be only to give evidence, or if it be only to produce a document, it must be expressed accordingly*], and you are not to depart thence until you have been examined [*or* have produced the document] and the Court has risen, or unless you have obtained the leave of the Court.

FORMS OF DECREES.

No. 127.

SIMPLE MONEY-DECREE.

(*Title.*)

Claim for

THIS cause coming on for final disposal before in the presence of on the part of the plaintiff, and on the part of the defendant, it is ordered that the do pay to the the sum of Rs. , with interest thereon at the rate of per cent. per from to the date of realization of the said sum, and do also pay to the the costs of this suit as taxed by the officer of the Court, with interest thereon at the rate aforesaid from the date of taxation to the date of realization.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

Costs of suit.

PLAINTIFF.	Rs.	A.	P.	DEFENDANT.	Rs.	A.	P.
1. Stamp for plaint				Stamp for power			
2. Do. for power				Do. petition . . .			
3. Do. for exhibits . . .				Pleader's fee			
4. Pleader's fees on Rs. . . .				Subsistence for witnesses . .			
5. Translation-fee				Service of process . . .			
6. Subsistence for witness for attendance				Translation-fee . . .			
7. Commissioner's fee . . .				Commissioner's fee			
8. Service of process . . .							
TOTAL .				TOTAL .			

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 128.

DECREE FOR SALE IN A SUIT BY A MORTGAGEE OR PERSON ENTITLED TO A LIEN.

(Title.)

IT is ordered that it be referred to the Registrar [*or* Taxing Officer] to take an account of what is due to he plaintiff for principal and interest on the mortgage [*or* lien] mentioned in the plaint, and to tax the plaintiff's costs of this suit, and that the Registrar [*or* Taxing Officer] do declare in Court on the day of what he shall find to be due for principal and interest as aforesaid, and for costs; And upon the defendant paying into Court what shall be certified to be due to the plaintiff for principal and interest as aforesaid, together with the said costs, within six months from the date of declaring in Court the amount so due, it is ordered that the plaintiff do re-convey the said mortgaged premises free and clear from all incumbrances done by him, or any claiming by, from or under, him, and do deliver up to the defendant or to such person as he appoints all documents in his custody or power relating thereto, and that upon such re-conveyance being made, and documents being delivered up, the Registrar [*or* Taxing Officer] shall pay out to the plaintiff the said sum so paid in as aforesaid for principal, interest and costs; but in default of the defendant paying into Court such principal, interest and costs as aforesaid by the time aforesaid, then it is ordered that the said mortgaged premises [*or* the premises subject to the said lien] be sold with the approbation of the Registrar [*or* Taxing Officer]. And it is ordered that the proceeds of such sale (after defraying thereout the expenses of the sale) be paid into Court, to the end that the same may be duly applied in payment of what shall be found due to the plaintiff for principal, interest and costs as aforesaid, and that the balance (if any) shall be paid to the defendant or other person entitled to receive the same.

No. 129.

FINAL DECREE FOR FORECLOSURE.

(Title.)

WHEREAS it appears to the Court that the defendant has not paid into Court the sum which was on the day of last declared in Court to be due to the plaintiff for principal and interest upon the mortgage in the plaint mentioned, and for costs, pursuant to the order made in this suit on the day of last, and that the period of six months has elapsed since the said day of

It is ordered that the defendant do stand absolutely debarred of all right to redeem the said mortgaged premises

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 130.

PRELIMINARY DECREE IN AN ADMINISTRATION-SUIT.

Section 213 of the Code of Civil Procedure, 190 .

(Title.)

IT is ordered that the following accounts and inquiries be taken and made ; that is to say :—

In creditor's suit—

1. That an account be taken of what is due to the plaintiff and all other the creditors of the deceased.

In suits by legatees—

2. An account be taken of the legacies given by the testator's will.

In suits by next-of-kin—

An inquiry be made and account taken of what, or of what share, if any, the plaintiff is entitled to as next-of-kin [*or* one of the next-of-kin] of the intestate.

[*After the first paragraph, the* **decree** *will, where necessary, order, in a creditor's suit, inquiry and accounts for legatees, heirs-at-law and next-of-kin. In suits by claimants other than creditors, after the first paragraph, in all cases, an order to inquire and take an account of creditors will follow the first paragraph, and such of the others as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's suit.*]

3. An account of the funeral and testamentary expenses.

4. An account of the moveable property of the deceased come to the hands of the defendant, or to the hands of any other person by his order or for his use.

5. An inquiry what part (if any) of the moveable property of the deceased is outstanding and undisposed of.

6. And it is further ordered that the defendant do, on or before the day of next, pay into Court all sums of money which shall be found to have come to his hands, or to the hands of any person by his order or to his use.

7. And that if the Registrar shall find it necessary for carrying out the objects of the suit to sell any part of the moveable property of the deceased, that the same be sold accordingly, and the proceeds paid into Court.

8. And that Mr. *E. F.* be Receiver in the suit (*or* proceeding), and receive and get in all outstanding debts and outstanding moveable property of the deceased, and pay the same into the hands of the Registrar (and shall give security by bond for the due performance of his duties to the amount of rupees).

9. And it is further ordered that if the moveable property of the deceased be found insufficient for carrying out the objects of the suit, then the following further inquiries be made, and accounts taken, that is to say—

(*a*) an inquiry what immoveable property the deceased was seized of or entitled to at the time of his death ;

(*b*) an inquiry what are the incumbrances (if any) affecting the immoveable property of the deceased, or any part thereof ;

(*c*) an account, so far as possible, of what is due to the several incumbrancers, and to include a statement of the priorities of such of the incumbrancers as shall consent to the sale hereinafter directed.

10. And that the immoveable property of the deceased, or so much thereof as shall be necessary to make up the fund in Court sufficient to carry out the object of the suit, be sold with the approbation of the Judge, free from incumbrances (if any) of such incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent.

11. And it is ordered that *G. H.* shall have the conduct of the sale of the immoveable property, and shall prepare the conditions and contracts of sale subject to the approval of the Registrar, and that in case any doubt or difficulty shall arise the papers shall be submitted to the Judge to settle.

12. And it is further ordered that, for the purpose of the inquiries hereinbefore directed, the Registrar shall advertise in the newspapers according to the practice of the Court, or shall make such inquiries in any other way which shall appear to the Registrar to give the most useful publicity to such inquiries.

13. And it is ordered that the above inquiries and accounts be made and taken, and that all other acts ordered to be done be completed, before the day of , and that the Registrar do certify the result of the inquiries, and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

14. And, lastly, it is ordered, that this suit [*or* matter] stand adjourned for making final decree to the day of

[*Such part only of this* **decree** *is to be used as is applicable to the particular case.*]

No. 131.

FINAL DECREE IN AN ADMINISTRATION-SUIT BY A LEGATEE.

Section 213 of the Code of Civil Procedure, 190 .

1. IT is ordered that the defendant do, on or before the day of , pay into Court the sum of Rs. , the balance by the said certificate found to be due

The Code of Civil Procedure, 190 .

(*The Third Schedule.*)

THE THIRD SCHEDULE—*continued.*

from the said defendant on account of the estate of , the testator and also the sum of Rs. for interest, at the rate of Rs. per cent. per annum, from the day of to the day of , amounting together to the sum of Rs.

2. Let the Registrar [*or* Taxing Officer] of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said costs, when so taxed, be paid out of the said sum of Rs. ordered to be paid into Court as aforesaid, as follows :—

(*a*)—The costs of the plaintiff to Mr. , his attorney [*or* pleader], and the costs of the defendant to Mr. , his attorney [*or* pleader].

(*b*)—And (*if any debts are due*) with the residue of the said sum of Rs. after payment of the plaintiff's and defendant's costs as aforesaid, let the sums, found to be owing to the several creditors mentioned in the schedule to the Registrar's certificate, together with subsequent interest on such of the debts as bear interest, be paid ; and, after making such payments, let the amount coming to the several legatees mentioned in the schedule, together with subsequent interest (to be verified as aforesaid), be paid to them.

3. And if there should then be any residue, let the same be paid to the residuary legatee.

PRELIMINARY DECREE IN AN ADMINISTRATION-SUIT BY A LEGATEE, WHERE AN EXECUTOR IS HELD PERSONALLY LIABLE FOR THE PAYMENT OF LEGACIES.

Section 213 of the Code of Civil Procedure, 190 .

1. Declare that the defendant is personally liable to pay the legacy of Rs. bequeathed to the plaintiff ;

2. And it is ordered that an account be taken of what is due for principal and interest on the said legacy ;

3. And it is also ordered that the defendant do, within weeks after the date of the Registrar's certificate, pay to the plaintiff the amount of what the Registrar shall certify to be due for principal and interest ;

4. And it is ordered that the defendant do pay the plaintiff his costs of suit, the same to be taxed in case the parties differ.

FINAL DECREE IN AN ADMINISTRATION-SUIT BY NEXT-OF-KIN.

Section 213 of the Code of Civil Procedure, 190 .

1. Let the Registrar of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said plaintiff's costs, when so taxed, be paid by the defendant to the plaintiff out of the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the personal estate of *E. F.*, the intestate, within one week after the taxation of the said costs by the said Registrar, and let the defendant retain for her own use out of such sum her costs, when taxed.

2. And it is ordered that the residue of the said sum of Rs. , after payment of the plaintiff's and defendant's costs as aforesaid, be paid and applied by defendant as follows :—

(*a*) Let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay one-third share of the said residue to the plaintiffs *A. B.*, and *C.*, his wife, in her right as the sister and one of the next-of-kin of the said *E. F.*, the intestate.

(*b*) Let the defendant retain for her own use one other third share of the said residue, as the mother and one other of the next-of-kin of the said *E. F.*, the intestate.

(*c*) And let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay the remaining one-third share of the said residue to *G. H.*, as the brother and the other next-of-kin of the said *E. F.*, the intestate.

No. 132.

PRELIMINARY DECREE IN A SUIT FOR DISSOLUTION OF PARTNERSHIP.

Section 215 of the Code of Civil Procedure, 190 .

(*Title.*)

IT is declared that the partnership in the plaint mentioned between the plaintiff and defendant ought to stand dissolved as from the day of , and it is ordered that the dissolution thereof as from that day be advertised in the Gazette, etc.

And it is ordered that be the Receiver of the partnership-estate and effects in this suit, and do get in all the outstanding book-debts and claims of the partnership.

And it is ordered that the following accounts be taken :—

1. An account of the credits, property and effects now belonging to the said partnership ;

2. An account of the debts and liabilities of the said partnership ;

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

3. An account of all dealings and transactions between the plaintiff and defendant, from the foot of the settled account exhibited in this suit and marked (A), and not disturbing any subsequent settled accounts.

And it is ordered that the goodwill of the business heretofore carried on by the plaintiff and defendant as in the plaint mentioned, and the stock-in-trade, be sold on the premises, and that the Registrar may, on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties is to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken, and all the other acts required to be done be completed, before the day of , and that the Registrar do certify the result of the accounts, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of .

And, lastly, it is ordered that this suit stand adjourned for making a final decree to the day of .

No. 133.

FINAL DECREE IN A SUIT FOR DISSOLUTION OF PARTNERSHIP.

Section 215 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

Civil Suit, No.

A. B. of

against

C. D. of

IT is ordered that the fund now in Court, amounting to the sum of Rs, , be applied as follows: —

1. In payment of the debts due by the partnership set forth in the Registrar's certificate, amounting in the whole to Rs.

2. In payment of the costs of all parties in this suit, amounting to Rs.

[These costs must be ascertained before the decree is drawn up.]

In payment of the sum of Rs. to the plaintiff as his share of the partnership-assets, of the sum of Rs. , being the residue of the said sum of Rs. now in Court, to the defendant as his share of the partnership-assets.

[*Or,* And that the remainder of the said sum of Rs. be paid to the said plaintiff [*or* defendant] in part payment of the sum of Rs. certified to be due to him in respect of the partnership-accounts].

And that the defendant [*or* plaintiff] do on or before the day of pay to the plaintiff [*or* defendant] the sum of Rs. being the balance of the said sum of Rs. due to him, which will then remain due.

No. 134.

Omitted.

No. 135.

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE.

Section 248 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19 .

Miscellaneous, No. of 19 .

A. B. of

against

C. D. of

To

WHEREAS

has made application to this Court for execution of decree in Civil Suit No. 19 , this is to give you notice that you are to appear before this Court on the day of 19 at the hour of , either in person, or by a pleader of this Court, or agent duly authorized and instructed, to show cause, if any, why execution should not be granted.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 136.

WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY IN DEFENDANT'S POSSESSION IN EXECUTION OF DECREE FOR MONEY.

Section 254 of the Code of Civil Procedure, 190 .

(Title.)

TO THE BAILIFF OF THE COURT.

WHEREAS was ordered, by decree of this Court passed on the day of 19 , in Suit No. of 19 , to pay to the plaintiff the sum of Rs. as noted in the margin; and whereas the said sum of Rs. has not been paid.

DECREE.		
Principal		
Interest . . .		
Costs		
Costs of decree . . .		
Interest thereon . . .		
Total of attachment . .		
TOTAL .		

THESE ARE TO COMMAND YOU to attach the moveable property of the said as set forth in the list hereunto annexed, or which shall be pointed out to you by the said , and unless the said shall pay to you the said sum of Rs. together with Rs. the costs of this attachment, to hold the same until further orders from this Court.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the day of 19 , with an endorsement certifying the date and manner in which it has been executed, or why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 19

Schedule.

L. S.

Judge.

No. 137.

WARRANT TO THE BAILIFF TO GIVE POSSESSION OF LAND, &C.

Section 263 of the Code of Civil Procedure, 190 .

(Title.)

TO THE BAILIFF OF THE COURT.

WHEREAS in the occupancy of has been decreed to , the plaintiff in this suit : you are hereby directed to put the said in possession of the same, and you are hereby authorized to remove any person bound by the decree who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 138.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY other than a debt or property deposited in or in the custody of any Court TO WHICH THE DEFENDANT IS ENTITLED SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE POSSESSION THEREOF.

Section 268 of the Code of Civil Procedure, 190 .

(Title.)

To

WHEREAS has failed to satisfy a decree passed against on the day of 19 , in favour of for Rs. : it is ordered that the defendant be, and is hereby, prohibited and restrained, until the further order of this Court, from receiving from the following property in the possession of the said , that is to say, , to which the defendant is entitled, subject to any claim of the said , and the said

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any person or persons whomsoever.

GIVEN under my hand and the seal of the Court this day of 19 .

L. S.

Judge.

No. 154.

WARRANT OF ARREST IN EXECUTION.

Section 337 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

Civil Suit, No. of 19 .

Miscellaneous, No. of 19 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS was adjudged by a decree of the Court, in No. of 19 , dated 19 , to pay to the plaintiff the sum of Rs. as noted in the margin, and whereas the said sum of Rs. has not been paid to the said plaintiff in satisfaction of the said decree, these are to command you to arrest the said defendant, and unless the said defendant shall pay to you the said sum of Rs. , together with Rs. for the costs of executing this process, to bring the said defendant before the Court with all convenient speed. You are further commanded to return this warrant on or before the day of 19 , with an endorsement certifying the day and manner in which it has been executed or the reason why it has not been executed.

Principal			
Interest			
Costs			
Execution			
TOTAL			

GIVEN under my hand and the seal of the Court, this day of 19

L. S.

Judge.

No. 142.

ATTACHMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE HANDS OF A COURT OF JUSTICE OR OFFICER OF GOVERNMENT.

Sections 272 and 483, sub-section (*6*), of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

To

SIR,

The plaintiff having applied, under section of the Code of Civil Procedure, 190 , for an attachment of certain money now in your hands (*here state how the money is supposed to be in the hands of the person addressed, on what account, etc.*), I request that you will hold the said money subject to the further order of this Court.

I have the honour to be,

SIR,

Your most obedient Servant,

L. S.

Dated the day of 19

Judge.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 141.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 274 of the Code of Civil Procedure, 190 .

(Title.)

To

Defendant,

WHEREAS you have failed to satisfy a decree passed against you on the day of 19 , in Civil Suit, No. of 19 , in favour of , for Rs. : it is ordered that you, the said , be, and you are hereby, prohibited and restrained, for the period of , from alienating the property specified in the schedule hereunto annexed, by sale, gift or otherwise, and that all persons be, and that they are hereby, prohibited for the said period from receiving the same by purchase, gift or otherwise.

GIVEN under my hand and the seal of the Court, this day of 19 .

Schedule.

L. S.

Judge.

No. 143.

ORDER FOR PAYMENT TO THE PLAINTIFF, ETC., OF MONEY, ETC., IN THE HANDS OF A THIRD PARTY.

Section 277 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19

Miscellaneous, No. of 19 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT AND TO

WHEREAS the following property has been attached in execution of a decree in Civil Suit, No. of 19 , passed on the day of 19 , in favour of , for Rs. : it is ordered that the property so attached, consisting of Rs. in money, and Rs. in currency-notes, or a sufficient part thereof to satisfy the said decree, shall be paid over by you, the said , to , and that the said property, so far as may be necessary for the satisfaction of the said decree, shall be sold by you, the Bailiff of the Court, by public auction in the manner prescribed for sale in execution of decrees, and that the money which may be realized by such sale, or a sufficient part thereof to satisfy the said decree, shall be paid over to the said and the remainder, if any, shall be paid to you, the said .

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

[New.]

No. 139.

ATTACHMENT IN EXECUTION.

GARNISHEE ORDER ATTACHING DEBT.

Section 268AA, ***sub-section (1),*** of the Code of Civil Procedure, 190 .

In the Court of , at

Civil Suit, No. of 19 .

A.B. of ***Decree-holder,***

against

C.D. of ***Judgment-Debtor.***
Garnishee.

Upon hearing and upon reading the affidavit of , filed the day of , 19 , and ;

It is ordered that all debts owing or accruing due from the above-named garnishee to the above-named judgment-debtor be attached to answer a decree passed against the said judgment-debtor in favour of the above-named decree-holder in the Court of on the day of 19 , for the sum of Rs. , on which decree the sum of Rs remains due, and unpaid.

And it is further ordered that the said garnishee attend this Court, on the day of , 19 , at the hour of , on an application by the said decree-holder, that the said garnishee pay the debt due from him to the said judgment-debtor, or so much thereof as may be sufficient to satisfy the decree.

Given under my hand and the seal of the Court this day of 19 .

(L. S.)

Judge.

[New.]

No. 140.

ATTACHMENT IN EXECUTION.

GARNISHEE ORDER ABSOLUTE.

Section 268AA, sub-section (*3*), of the Code of Civil Procedure, 190 .

[***Heading as in No. 139.***]

Upon hearing the decree-holder and the garnishee and upon reading the affidavit of , filed the day of 19 , and the order made herein, dated the day of , 19 , whereby it was ordered that all debts owing or accruing due from the above-named garnishee to the above-named judgment-debtor should be attached to answer a decree passed against the said judgment-debtor in favour of the above-named decree-holder in the Court of on the day of 19 , for the sum of Rs. , on which decree the sum of Rs. remained due and unpaid;

It is ordered that the said garnishee do forthwith pay the said decree-holder Rs. , the debt due from him to the said judgment-debtor (or so much thereof as may be sufficient to satisfy the decree), and that in default thereof execution may issue for the same (***where costs are given, add*** and that the costs of this order be added to the decree passed against the said judgment-debtor in favour of the said decree-holder).

Given under my hand and the seal of the Court this day of 19 .

(L. S.)

Judge.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 140A. [New.]

ATTACHMENT IN EXECUTION.

ORDER TO SHOW CAUSE WHY STOCK SHOULD NOT BE CHARGED.

Section 268E of the Code of Civil Procedure, 190 .

In the Court of , at .

Civil Suit, No. of 19 .

A. B. of ***Decree-holder,***

against

C. D. of ***Judgment-debtor.***

Upon hearing and upon reading the affidavit of , filed the day of , 19 , whereby it appears that a decree was passed in favour of the above-named decree-holder against the said judgment-debtor in the Court of on the day of , 19 , for the sum of Rs. , on which decree the sum of Rs. remains due and unpaid, and there is standing in ;

It is ordered that unless sufficient cause be shown to the contrary before this Court on the day of , 19 , at the hour of , the said judgment-debtor's interest in the so standing as aforesaid shall, and that it in the meantime do, stand charged with the payment of the above-mentioned amount due on the said decree.

Given under my hand and the seal of the Court this day of , 19 .

L. S.

Judge.

No. 140B. [New]

ATTACHMENT IN EXECUTION.

CHARGING ORDER ABSOLUTE.

Section 268E of the Code of Civil Procedure, 190 .

In the Court of , at .

Civil Suit, No. of 19 .

A. B. of ***Decree-holder,***

against

C. D. of ***Judgment-debtor.***

Upon hearing and upon reading the affidavit of , filed the day of , 19 , and an order to show cause made herein on the day of 19 , reciting the affidavit of , whereby it appeared that a decree was passed in favour of the above-named decree-holder against the above-named judgment-debtor on the day of , 19 , for the sum of Rs. , on which decree the sum of Rs. remains due and unpaid, and that there is standing in ;

It is ordered that the said judgment-debtor's interest in the so standing as aforesaid stand charged with the payment of the above-mentioned amount due on the said decree.

Given under my hand and the seal of the Court this day of , 19 .

L. S.

Judge.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 144.

Omitted.

No. 145.

WARRANT OF SALE OF PROPERTY IN EXECUTION OF A DECREE FOR MONEY.

Section 287 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19 .

Miscellaneous, No. of 19 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

THESE ARE TO COMMAND YOU to sell by auction after giving days, previous notice, by affixing the same in this Court-house, and after making due proclamation,* the property attached under a warrant from this Court dated the day of 19 , in execution of a decree in favour of in suit No. of 19 , or so much of the said property as shall realize the sum of Rs. , being the of the said decree and costs still remaining unsatisfied.

YOU ARE FURTHER COMMANDED to return this warrant on or before the day of 19 , with an endorsement certifying the manner in which it has been executed, or the reason why it has not been executed.

GIVEN under my hand and the seal of the Court, this day 19 .

L. S.

Judge.

No. 146.

NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION.

Section 299, sub-section (2), of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

To

WHEREAS has been the purchaser at a sale by auction in execution of the decree in the above suit of now in your possession, you are hereby prohibited from delivering possession of the said to any person except the said

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

---

* This proclamation shall specify the time, the place of sale, the property to be sold, the revenue assessed should the property consist of land paying revenue to Government, and the amount for the recovery of which the sale is ordered, and as fairly and accurately as possible the other particulars required by section 287 to be specified.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 147.

PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY OTHER THAN THE PURCHASER.

Section 299, sub-section (3), of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

To and to

WHEREAS has become the purchaser at a public sale in execution of the decree in the above suit of certain debt due from you to you , that is to say , it is ordered that you be, and you are hereby, prohibited from receiving, and you from making payment of, the said debt to any person or persons except the said .

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 148.

PROHIBITORY ORDER AGAINST THE TRANSFER OF STOCK SOLD IN EXECUTION.

Section 299, sub-section (3), of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

To

and , Manager of Company.

WHEREAS has become the purchaser at a public sale in execution of the decree, in the above suit, of certain shares in the above company, that is to say, of standing in the name of you , it is ordered that you be, and you are hereby, prohibited from making any transfer of the said shares to any person except the said , the purchaser aforesaid, or from receiving any dividends thereon; and you , the Manager of the said Company, from permitting any such transfer or making any such payment to any person except the said purchaser aforesaid.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 149.

Omitted.

No. 150.

CERTIFICATE OF SALE OF LAND.

Section 316 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

THIS is to certify that has been declared the purchaser at ale by public auction on the day of 19 , of

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

in execution of decree in this suit, and that the said sale has become absolute.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S

Judge.

No. 151.

ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND AT A SALE IN EXECUTION.

Section 318 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has become the certified purchaser of at a sale in execution of the decree in Civil Suit, No. of 19 ; and whereas such land is in the possession of , you are hereby ordered to put the said , the certified purchaser, as aforesaid, [or ***legal representative of the certified purchaser, as aforesaid***] into possession of the , and, if need be, to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 152.

AUTHORITY TO THE COLLECTOR TO STAY PUBLIC SALE OF LAND.

Section 326 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

To

Collector of .

SIR,

In answer to your communication No. , dated , representing that the sale in execution of the decree in this suit of and lying within your district, paying revenue to Government, is objectionable, I have the honour to inform you that you are authorized to make provision for the satisfaction of the said decree in the manner recommended by you instead of proceeding to a public sale of .

I have the honour to be,

SIR,

Your obedient Servant,

L. S.

Judge.

No. 153.

ORDER FOR COMMITTAL FOR RESISTING, &c., EXECUTION OF DECREE FOR LAND.

Section 328, ***sub-section (3),*** of the Code of Civil Procedure, 190 .

(*Title.*)

WHEREAS it appears to the Court that has without just cause resisted [*or* obstructed] the execution of the decree of the Court passed against

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

on the day of 19 , in Civil Suit, No. of 19 , whereby certain land or immoveable property was adjudged to , it is ordered that the said be committed to custody for a period of days.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 155

NOTICE OF PAYMENT INTO COURT.

Section **376**, **sub-section *(2)***, [***or* 379A**] of the Code of Civil Procedure, 190 .

IN THE COURT OF .

B. No. 19 .

A. B. v. *C. D.*

TAKE notice that the defendant [***or judgment-debtor***] has paid into Court Rs. , and says tha that sum is enough to satisfy the plaintiff's [***or decree-holder's***] claim [*or* the plaintiff's [***or decree-holder's***] claim for, etc.]

To Mr. *X. Z.*,
the Plaintiff's Pleader.

Z.,
Defendant's Pleader.

No. 156.

COMMISSION TO EXAMINE ABSENT WITNESSES.

Section 386 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

Civil Suit, No. of 19 .
A. B. of
against
C. D. of

To

WHEREAS the evidence of is required by the in the above suit ; and whereas you are requested to take the examination on interrogatories [*or* vivâ voce] of such witnesses and you are hereby appointed a Commissioner for that purpose, and you are further requested to make return of such examination so soon as it may be taken [process to require the attendance of the witness will be issued by the Court having local jurisdiction on your application].*

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

* Not necessary where the commission goes to another Court.

No. 157.

COMMISSION FOR A LOCAL INVESTIGATION, OR TO EXAMINE ACCOUNTS.

Sections 392 and 394 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

Civil Suit, No. of 19 .
A. B. of
against
C. D. of

To

WHEREAS it is deemed requisite, for the purpose of this suit, that a commission for should be issued ; you are hereby appointed Commissioner for the purpose of [process to compel the attendance before you of any witnesses, or for the production of any documents which you

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

may desire to examine or inspect, will be issued by the Court having local jurisdiction on your application].*

A sum of Rs. , being your fee in the above, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

* Not necessary where the commission goes to another Court.

No. 157A.

NOTICE TO MINOR DEFENDANT.

Section 443, sub-section (*3*), of the Code of Civil Procedure, 190 .

[New.]

In the Court of District

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

To

Minor Defendant,

Natural guardian of the said minor defendant [*or* in whose house the said minor defendant resides *or* under whose care the said minor defendant is].

Whereas application has been made by the plaintiff in the above suit for the appointment of a guardian for the suit for the minor defendant; you, the said minor, and you, , are hereby required to take notice that, unless within days from the service of this notice, an application is made to this Court for the appointment of you, the said , or of some friend of you, the said minor, to be the guardian for the suit, the Court will proceed to appoint some other person to be the guardian for the suit for the said minor.

Given under my hand and the seal of this Court, this day of

L. S.

Judge.

No. 158.

WARRANT OF ARREST BEFORE JUDGMENT.

Section 477, sub-section (*1*), of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS , the plaintiff in the above suit, ***claims the sum of Rs. as noted in the margin and*** has proved to the satisfaction of the Court that there is probable cause for believing that the defendant is about to ,

Principal			
Interest			
Costs			
TOTAL .			

THESE ARE TO COMMAND YOU to ***demand and receive from the said the sum of Rs. as sufficient to satisfy the plaintiff's claim and, unless the said sum of Rs. is forthwith delivered to you by or on behalf of the said , to*** take into custody, and to bring the said before the Court, in order that he may show cause why he should not furnish security to the amount of rupees for personal appearance before the Court, until such time as the said suit shall be fully and finally disposed of, and until execution or satisfaction of any decree that may be passed against in the suit.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 159.

ORDER FOR COMMITTAL.

Section 481 of the Code of Civil Procedure, 190

IN THE COURT OF AT .

Civil Suit, No. of 19 .

A. B. of
against
C. D. of

To

WHEREAS , plaintiff in this suit, has made application to the Court that security be taken for the appearance of the defendant to answer any judgment that may be passed against in the suit; and whereas the Court has called upon the defendant to furnish such security, or to offer a sufficient deposit in lieu of security, which has failed to do; it is ordered that the said defendant be committed to *the civil* prison until the decision of the suit; or, if judgment be delivered against until the execution of the decree.

GIVEN under my hand and the seal of the Court, this day of 19 .

(L. S.)

Judge.

No. 160.

ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR FULFILMENT OF DECREE

Section 483, sub-section (*1*), of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

Civil Suit, No. of 19 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has proved to the satisfaction of the Court that the defendant in the above suit , THESE ARE TO COMMAND YOU to call upon the said defendant on or before the day of either to furnish security for the sum of rupees to produce and place at the disposal of this Court when required or the value thereof, or such portion of the value as may be sufficient to fulfil any decree that may be passed against , or to appear and show cause why should not furnish security; and you are further ordered to attach the said and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appear to the Court immediately after the execution hereof, and have you here then this warrant.

GIVEN under my hand and the seal of the Court, this day of 19 .

(L. S.)

Judge.

No. 161.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY.

Section 483, sub-section (*4*), of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS , the plaintiff in this suit, has applied to the Court to call upon , the defendant, to furnish security to fulfil any decree that may be passed against in the suit, and whereas the Court has called upon the said to furnish such security, which has failed

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

to do; THESE ARE TO COMMAND YOU to attach the property of the said and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appear to this Court immediately after the execution hereof, and have you here then this warrant.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 162.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED, SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSONS TO THE IMMEDIATE POSSESSION THEREOF.

Section 483, sub-section (*6*), of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

To Defendant.

IT is ordered that you, the said , be, and you are hereby prohibited and restrained, for the period of , from receiving from the following property in the possession of the said that is to say, , to which the defendant is entitled, subject to any claim of the said and the said is hereby prohibited and restrained, for the said period, from delivering the said property to any persons whomsoever.

GIVEN under my hand and seal of the Court, this day of 19 .

L. S.

Judge.

No. 163.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 483, sub-section (*6*), of the Code of Civil Procedure, 190

IN THE COURT OF AT .

Civil Suit, No. of 19

A. B. of

against

C. D. of

To Defendant.

IT is ordered that you, the said , be, and you are hereby, prohibited and restrained, for the period of , from alienating the property specified in the schedule hereunto annexed, by sale, gift or otherwise, and that all persons be, and that they are hereby, prohibited and restrained, for the said period, from receiving the same by purchase, gift or otherwise.

GIVEN under my hand and the seal of the Court, this day of 19 .

Schedule.

L. S.

Judge.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 164.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY IN THE HANDS OF OTHER PERSONS, OR OF DEBTS NOT BEING NEGOTIABLE INSTRUMENTS.

Section 483, sub-section (*6*), of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

To

IT is ordered that the defendant be, and he is hereby, prohibited and restrained, for the period of , from receiving from the [money now in hands belonging to the said defendant *or* debts, *as the case may be, describing them*] and that the said be, and hereby, prohibited and restrained, for the said period, from making payment of the said [money, &c.], or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 165.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &C.

Section 483, sub-section (*6*), of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

To Defendant, and to , Manager of Company.

IT is ordered that , the defendant, be, and hereby, prohibited and restrained, for the period of from making any transfer of shares, being in the aforesaid Company, or from receiving payment of any dividends thereof, and you , Manager of the said Company, are hereby prohibited and restrained, for the said period, from permitting any such transfer, or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 166.

TEMPORARY INJUNCTIONS.

Section 492 of the Code of Civil Procedure, 190 .

UPON motion made unto this Court by , Pleader of [*or* Counsel for] the plaintiff *A. B.*, and upon reading the petition of the said plaintiff in this matter filed [this day] [*or* the plaint filed in this cause on the day of , *or* the written statement of the said plaintiff filed on the day of] and upon hearing the evidence of and in support thereof, [*if after notice and defendant not appearing : add,* and also he evidence of as to service of notice of this motion

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

upon the defendant, *C. D.*]. This Court doth order that an injunction be awarded to restrain the defendant, *C. D.*, his servants, workmen and agents, from pulling down, or suffering to be pulled down, the house in the plaint in the said suit of the plaintiff mentioned [*or* in the written statement, *or* petition, of the plaintiff and evidence at the hearing of this motion mentioned] being No. 9, Oilmongers Street, Hindupur, in the Taluk of , and from selling the materials whereof the said house is composed, until the hearing of this cause or until the further order of this Court.

Dated this day of 19 .

L. S.

Judge.

[*Where the injunction is sought to restrain the negotiation of a note or bill, the ordering part of the order may run thus*:—] to restrain the defendants and from parting with out of the custody of them or any of them or endorsing, assigning or negotiating the promissory note [*or* bill of exchange] in question, dated on or about the , *&c.*, mentioned in the plaintiff's plaint [*or* petition] and the evidence heard at this motion until the hearing of this cause, or until the further order of this Court.

[*In Copyright cases*] to restrain the defendant, *C. D.*, his servants, agents or workmen, from printing, publishing or vending a book, called , or any part thereof, until the, *&c.*

[*Where part only of a book is to be restrained*] to restrain the defendant, *C. D.*, his servants, agents or workmen, from printing, publishing, selling or otherwise disposing of such parts of the book in the plaint [*or* petition and evidence, *&c.*] mentioned to have been published by the defendant as hereinafter specified, namely, that part of the said book which is entitled and also that part which is entitled [*or* which is contained in page to page both inclusive] until the , *&c.*

[*In Patent cases*] to restrain the defendant, *C. D.*, his agents, servants and workmen, from making or vending any perforated bricks [*or as the case may be*] upon the principle of the inventions in the plaintiff's plaint [*or* petition, *&c.*, *or* written statement, *&c.*] mentioned, belonging to the plaintiffs, or either of them, during the remainder of the respective terms of the patents in the plaintiff's plaint [*or as the case may be*] mentioned, and from counterfeiting, imitating or resembling the same inventions, or either of them, or making any addition thereto, or subtraction therefrom, until the hearing, &c.

[*In cases of Trade marks*] to restrain the defendant, *C. D.*, his servants, agents or workmen, from selling, or exposing for sale, or procuring to be sold, any composition or blacking [*or as the case may be*] described as or purporting to be blacking manufactured by the plaintiff, *A. B.*, in bottles having affixed thereto such labels as in the plaintiff's plaint [*or* petition, *&c.*] mentioned, or any other labels so contrived or expressed as by colourable imitation or otherwise, to represent the composition or blacking sold by the defendant to be the same as the composition or blacking manufactured and sold by the plaintiff, *A. B.*, and from using trade-cards so contrived or expressed as to represent that any composition or blacking sold or proposed to be sold by the defendant is the same as the composition or blacking manufactured or sold by the plaintiff, *A. B.*, until the, &c.

[*To restrain a partner from in any way interfering in the business*] to restrain the defendant, *C. D.*, his agents and servants, from entering into any contract, and from accepting, drawing, endorsing or negotiating any bill of exchange, note or written security in the name of the partnership-firm of *B.* & *D*, and from contracting any debt, buying and selling any goods, and from making or entering into any verbal or written promise, agreement or undertaking, and from doing or causing to be done, any act, in the name or on the credit of the said partnership-firm of *B.* & *D.*, or whereby the said partnership-firm can or may in any manner become or be made liable to or for the payment of any sum of money, or for the performance of any contract, promise or undertaking until the, &c.

No. 167.

NOTICE OF APPLICATION FOR INJUNCTION.

Section 494 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

A. B. of
against
C. D. of

TAKE notice that I, *A. B.*, intend to apply at the sitting of the Court at aforesaid, on the day of , for an injunction to restrain *C. D.* from further prosecuting a suit which he has commenced against me in , to recover damages

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

for the breach of the contract for the specific performance of which this suit was commenced [*or* to restrain him from receiving and giving discharges for any of the debts due to the partnership in the matter of the partnership between us for the winding-up of which the suit was commenced, *or* from digging the turf from the land which was agreed to be sold by him to me by the agreement, the specific performance of which this suit is commenced to enforce, *or as the case may be*].

Dated this day of 19 .

To *C. D.*

A. B.

[*N.B.—Where the injunction is to be applied for against a party whose name and address do not appear upon any proceeding already filed in the suit, such name and address must be stated in full to enable the proper officer to serve the notice.*]

No. 168.

APPOINTMENT OF A RECEIVER.

Section 503 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT

Civil Suit, No. of 19 .

A. B. of

against

C. D. of

To

WHEREAS has been attached in execution of a decree passed in the above suit on the day of 19 , in favour of : you are hereby (subject to your giving security to the satisfaction of the *Registrar*) appointed Receiver of the said property under section 503 of the Code of Civil Procedure, with full powers under the provisions of that section.

YOU are required to render a due and proper account of your receipts and disbursements in respect of the said property on . You will be entitled to remuneration at the rate of per cent. upon your receipts under the authority of this appointment.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 169.

BOND TO BE GIVEN BY RECEIVER.

Section 503 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Civil Suit, No. of .

A. B. of

against

C. D. of

KNOW all men by these presents, that we, *I. J.* of, &c., and *K. L.* of, &c., and *M. N.* of, &c., are jointly and severally bound to *G. H.*, *Registrar* of the Court of , in Rs. to be paid to the said *G. H.* or his attorney, executors, administrators or assigns. For which payment to be made we bind ourselves, and each of us, in the whole, our and each of our heirs, executors and administrators, jointly and severally, by these presents.

Dated this day of 19 .

And whereas a plaint has been filed in this Court by *A. B.* against *C. D.* for the purpose of [*here insert the object of suit*].

And whereas the said *I. J.* has been appointed, by order of the above-mentioned Court, to receive the rents and profits of the immoveable property and to get in the outstanding moveable property of *O. P.*, the testator in the said plaint named.

Now the condition of this obligation is such, that if the above-bounden *I. J.* shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the immoveable property, and in respect of the moveable property of the said *O. P.* [*or, as may be*] at such

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

periods as the said Court shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court hath directed or shall hereafter direct, then this obligation shall be void, otherwise it shall remain in full force.

I. J.
K. L.
M. N.

Signed and delivered by the above-bounden in the presence of

NOTE.—*If deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond.*

No. 170.

ORDER OF REFERENCE TO ARBITRATION UNDER AGREEMENT OF PARTIES.

Section 508 of the Code of Civil Procedure, 190 .

(Title.)

To

WHEREAS the above-mentioned plaintiff and defendant have agreed to refer the matters in *controversy* between them in the above suit to your arbitration and award, you are hereby appointed accordingly to determine all the said matters in *controversy* between the parties, and with power, by consent of the parties, to determine which party shall pay the costs of this reference.

You are required to deliver your award in writing to this Court on or before the day of 19 , or such other day as this Court may further fix.

Process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on your application, and you are empowered to administer to such witnesses oath or affirmation.

A sum of Rs. , being your fee in the above suit, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 171.

ORDER OF REFERENCE TO ARBITRATION BY COURT, WITH CONSENT.

Section 508 of the Code of Civil Procedure, 190 .

(Title.)

UPON reading a petition of the plaintiff, filed this day, and on the consent of for the defendant, and upon hearing for the plaintiff and for the defendant, it is ordered, by and with the consent of all the parties, that all matters in *controversy* this suit, including all dealings and transactions between all parties, be referred to the final determination of

who is to make his award in writing and submit the same to this Court, together with all proceedings, depositions and exhibits in this suit, within one month from the date hereof. And it is ordered further, by and with the like consent, that the said arbitrator is to be at liberty to examine the parties and their witnesses upon oath or affirmation, which he is empowered to administer, and that the said arbitrator shall have all such powers or authorities as are vested in arbitrators under the Code of Civil Procedure, 190 including therein power to call for all books of account that he may consider necessary. And it is further ordered, by and with the like consent, that the costs of this suit, together with the costs of reference to arbitration, up to and including the award of the said arbitrator, and the enforcement thereof, do abide the result of the finding of the said arbitrator. And it is further ordered, by and with the like consent, that the said arbitrator be at liberty to appoint a competent accountant to assist him in the investigation of the several matters referred to him as aforesaid, and that the remuneration of such accountant and other charges attending hereto be in the discretion of the said arbitrator.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

The Code of Civil Procedure, 190 .
(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 172.

SUMMONS IN SUMMARY SUIT ON NEGOTIABLE INSTRUMENT.
Section 532 of the Code of Civil Procedure, 190 .

No. OF SUIT.

IN THE COURT OF AT

Plaintiff.
Defendant.

To

[Here enter the defendant's name, description and address.]

WHEREAS [*here enter the plaintiff's name, description and address*] has instituted a suit in this Court against you under Chapter XLI of the Code of Civil Procedure for Rs. , principal and interest [*or* Rs. , balance of principal and interest] due to him as the payee [*or* endorsee] of a bill of exchange [*or* hundi *or* promissory note], of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court within ten days from the service hereof, inclusive of the day of such service, to appear and defend the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such ten days to obtain a decree for any sum not exceeding the sum of Rs. [*here state the sum claimed*] and the sum of Rs. for costs.

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

[Here copy the bill of exchange, hundi or promissory note, and all endorsements upon it.]

No. 173.

MEMORANDUM OF APPEAL.
Sections 541 ***and 541A*** of the Code of Civil Procedure, 190 .

MEMORANDUM OF APPEAL.

(*Name, &c., as in Register.*) Plaintiff—Appellant.
(*Name, &c., as in Register.*) Defendant—Respondent.

[*Name of Appellant*] [plaintiff *or* defendant] above-named appeals to the High Court at [*or* District Court at , *as the case may be*] against the decree of in the above suit dated the day of , for the following reasons, namely [*here state the grounds of objection*].

[*Demand of judgment.*]

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 174.

REGISTER OF APPEALS.

Section 548 of the Code of Civil Procedure, 190 .

COURT (*OR* HIGH COURT) AT .

REGISTER OF APPEALS FROM DECREES in the year 19 .

Date of Memorandum.	No. of Appeal.	Appellant.			Respondent.			Decree appealed from.				Appearance.			Judgment.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day *and hour* for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what or Amount.

The Code of Civil Procedure, 190 .

(*The Third Schedule.*)

THE THIRD SCHEDULE—*continued.*

No. 175.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL.

Section 553 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

, *Appellant*, v. , *Respondent.*

APPEAL from the of the Court of dated the day of 19 .

Respondent.

To

TAKE notice that an appeal from the decree of in this case has been presented by and registered in this Court, and that the day of 19 has been fixed by this Court for the hearing of this appeal.

If no appearance is made on your behalf by yourself, your pleader, or by some one by law authorized to act for you in this appeal, it will be heard and decided *ex parte* in your absence.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

[NOTE.—*If a stay of execution has been ordered, intimation should be given of the fact on this notice.*]

No. 176.

DECREE ON APPEAL.

Section 579 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

, *Appellant*, v. , *Respondent.*

APPEAL No. from the of the Court of dated the day of 19 .

This appeal coming on for hearing on the day of 19 before , in the presence of for the Appellant, and of for the Respondent, it is ordered—

[*here state the relief granted*].

The costs of this appeal, amounting to , are to be paid by . The cost of the original suit are to be paid by .

GIVEN under my hand, this day of .

L. S.

Judge.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*continued.*

No. 177.

REGISTER OF APPEALS FROM APPELLATE DECREES.

Section 587 of the Code of Civil Procedure, 190 .

HIGH COURT AT .

REGISTER OF APPEALS FROM APPELLATE DECREES.

Date of Memorandum.	No. of Appeal.	Appellant.			Respondent.			Decree appealed from.				Appearance.			Judgment.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit and of Appeal.	Particulars.	Amount or Value.	Day *and hour* for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what or Amount.

The Code of Civil Procedure, 190 .

(The Third Schedule.)

THE THIRD SCHEDULE—*concluded.*

No. 178.

NOTICE TO SHOW CAUSE WHY A REVIEW SHOULD NOT BE GRANTED.

Section 626 of the Code of Civil Procedure, 190 .

IN THE COURT OF AT .

Plaintiff, v. *Defendant.*

To

TAKE notice that has applied to this Court for a review of its judgment passed on the day of 19 in the above case. The day of 19 , at the hour of , is fixed for you to show cause why the Court should not grant a review of its judgment in this case.

GIVEN under my hand and the seal of the Court, this day of 19 .

L. S.

Judge.

No. 179.

NOTICE OF CHANGE OF PLEADER.

IN THE COURT OF AT

A. B. of

against

C. D. of

TO THE REGISTRAR OF THE COURT.

TAKE notice that I, *A. B.* [*or C. D.*], have hitherto employed as my pleader *G. H.* of in the above-mentioned cause, but that I have ceased to employ him, and that my present pleader is *J. K.* of

A. B. [*or C. D.*]

No. 180.

MEMORANDUM TO BE PLACED AT FOOT OF EVERY SUMMONS, NOTICE, DECREE OR ORDER OF COURT, OR ANY OTHER PROCESS OF THE COURT.

Hours of attendance at the office of the Registrar [*place of office*] from *ten* till *four* except on [*here insert the day on which the office will be closed*], when the office will be closed at *one*.

THE FOURTH SCHEDULE.

[New.]

ENACTMENTS AMENDED.

(See section 653A.)

1	2	3	4
Year.	No.	Short title.	Amendment.
1855	XXVIII	The Usury Laws Repeal Act, 1855.	In section 2, *after the word* amount *the words* for any period prior to the date of the institution of the suit *shall be inserted.* For section 3 *the following shall be substituted, namely:—* 3. Whenever the Court by its decree orders interest to be paid— [Rate of interest subsequent to institution of suit.] (*a*) upon the principal sum adjudged from the date of the institution of a suit to the date of the decree, or (*b*) upon the aggregate sum so adjudged from the date of the decree to the date of payment or to such earlier date as it thinks fit, it may, subject to the provisions of any law for the time being in force, order such interest to be calculated at the rate of interest (if any) adjudged upon the principal sum in the decree or, for reasons to be recorded, at such lower rate or rates as the Court deems equitable.
1870	*VII*	*The Court-fees Act, 1870*	*In article 1 of Schedule I, after the word "plaint", in both places in which it occurs, the words "written statement pleading a set-off or counter-claim" shall be inserted.* *From article 11 of Schedule II the words "from an order rejecting a plaint or" shall be omitted.* *For the entries in column 1 of the said Schedule relating to articles 18 and 19 the following entries shall be substituted, namely:—* *"18. Application under sections 523 and 525 of the Code of Civil Procedure, 190 .* *19. Agreement under section 527 of the said Code."*
1875	XX	The Central Provinces Laws Act, 1875.	For section 11 *the following section shall be substituted, namely:—* 11. The provisions of sections 184, 185, *185A* and 189 of the Code of Civil Procedure, 190 , shall not apply. [Bar of application of certain sections of Civil Procedure Code.] In section 12, *for the word and figures* sections 182, 190 *the words and figures* sections 182, 184, sub-section (2), 189, sub-section (2), *shall be substituted.*
1876	XVII	The Oudh Laws Act, 1876.	In section 19, *for the words and figures* sections 172 to 205 (both inclusive) of the Code of Civil Procedure are hereby repealed, so far as the province of Oudh is concerned, *the words and figures* sections 181 to 189 of the Code of Civil Procedure, 190 , shall not apply *shall be substituted.*
1877	II	The Indian Registration Act, 1877.	To *the second paragraph of* section 89 *the following shall be added, namely:—* The filing of such copy shall have the same force and effect as registration.
"	XV	The Indian Limitation Act, 1877.	In section 3, *after the definition of* foreign country *the following definitions shall be added, namely:—* the expression "growing crops" includes crops of all sorts attached to the soil, and leaves, flowers and fruits upon, and juice in, trees and shrubs; "moveable property" includes growing crops; *To section 5 the following shall be added, namely:—* *"The provisions of this section applicable to appeals shall be deemed to apply to applications under sections 363, sub-section (2), 366, 368 and 370 to 372 of the Code of Civil Procedure, 190 ."*

THE FOURTH SCHEDULE—*continued.*

1	2	3	4
Year.	No.	Short title.	Amendment.
1877	XV—*contd.*		

To section 12 *the following shall be added, namely :—*

Explanation.—The time requisite for obtaining a copy of a decree or judgment shall not be deemed to include any period anterior to the date of applying for such copy, even though the decree may not have been drawn up, dated or signed, nor shall it be deemed to include any period subsequent to the date on which the copy, being ready for delivery, could have been obtained by the exercise of reasonable care and diligence, *nor any period during which the preparation of a copy may have been stopped for failure to pay the requisite costs or fees.*

After section 16 *the following section shall be added, namely :—*

Exclusion of period of notice in suits against Secretary of State or public officer.

16A. *In computing the period of limitation prescribed for any suit of the nature referred to in section 424 of the Code of Civil Procedure, 190 , the period of two months next after the notice in writing was delivered or left in pursuance of the said section shall be excluded.*

After section 18 *the following section shall be added, namely :—*

Exclusion of time during which payment of money-decree has been postponed.

18A. In computing the period of limitation prescribed for an application for the execution of a decree, where and in so far as such decree (not being a decree for the enforcement of a mortgage) is a decree for the payment of money, the time (if any) during which payment of the amount decreed has been postponed, by an order of the Court under section 210 of the Code of Civil Procedure, 190 , shall be excluded.

In column 1 of the second schedule, *for the figures and words in article 11,* 280, 281, 282 of the Code of Civil Procedure, *the figures and words* 332 of the Code of Civil Procedure, 190 , *shall be substituted.*

In the second schedule, after article 12, the following article shall be added, namely ;—

12AA. By a person whose property has been sold in execution of a decree to which he was not a party and who has made no claim under section 278 of the Code of Civil Procedure, 190 , against the purchaser or his representative in interest for possession of such property, when the plaintiff while in possession has been dispossessed by such auction-purchaser or his representative.	*Ditto . . .*	*The date of dispossession."*

In the second schedule, for articles 163 and 164 the following articles shall be substituted, namely :—

163. By a plaintiff or a decree-holder for an order to set aside a dismissal by default.	*Thirty days .*	*The date of the dismissal.*
164. By a defendant or judgment-debtor for an order to set aside a judgment ex parte or an order made ex parte in an execution-proceeding.	*Ditto . . .*	*The date of executing any process for enforcing the judgment or order.*

In the second schedule, after article 164 *the following article shall be added, namely :—*

164A. For the issue of a notice under section 258 of the Code of Civil Procedure, 190 , to show cause why the payment or adjustment therein mentioned should not be recorded or certified.	Ditto . .	The date of executing any process for enforcing the decree *in contravention of such agreement or adjustment.*

In the second schedule, after article 165, the following article shall be added, namely :—

165A. Under section 290, sub-section (2), of the Code of Civil Procedure, 190 , by a judgment-debtor to set aside a sale.	*Ditto . .*	*The date on which the period of thirty days or of fifteen days, as the case may be, referred to in sub-section (1) of the said section, expires.*

THE FOURTH SCHEDULE—*concluded.*

<table>
<tr><th>1</th><th>2</th><th>3</th><th>4</th></tr>
<tr><th>Year.</th><th>No.</th><th>Short title.</th><th>Amendment.</th></tr>
<tr><td>1877</td><td>XV—
contd.</td><td></td><td>
In column 1 of the second schedule, after the word "in," where it occurs for the second time in article 166, the words "attaching the property or in" shall be inserted.
In column 1 of the second schedule, for the words "person whose interest in the property purported to be sold" in article 172 the word "judgment-debtor" shall be substituted.
In the second schedule, after article 172 the following article shall be inserted, namely :—
<table>
<tr><td>"172A. To set aside a sale in execution of a decree, on the ground of fraud.</td><td>Ninety days</td><td>The date when the fraud becomes known to the applicant.</td></tr>
</table>
In the second schedule, for article 173A the following article shall be substituted, namely :—
<table>
<tr><td>173A. By a purchaser at a sale of immoveable property in execution of a decree for a certificate under section 316 of the Code of Civil Procedure, 190 .</td><td>Ditto . .</td><td>From the date on which the sale became absolute.</td></tr>
</table>
In the second schedule, after article 175C, the following articles shall be added, namely :—
<table>
<tr><td>175D. Under section 363 of the Code of Civil Procedure, 190 , to have the legal representative of a deceased plaintiff made a party, or under that section and section 582 of the same Code to have the legal representative of a deceased plaintiff-respondent or defendant-respondent made a party.</td><td>Ditto . .</td><td>The date of the death of the deceased plaintiff, or of the deceased plaintiff-respondent, or defendant-respondent.</td></tr>
<tr><td>175E. Under section 370 of the Code of Civil Procedure, 190 , by an assignee or receiver to continue the suit.</td><td>Ditto . .</td><td>The date of the plaintiff's insolvency.</td></tr>
<tr><td>175F. Under section 372 of the Code of Civil Procedure, 190 , to continue a suit or appeal in the case of assignment, creation or devolution of any interest.</td><td>Ditto . .</td><td>The date of such assignment, creation or devolution of any interest.</td></tr>
</table>
In the second schedule, for article 176 the following articles shall be substituted, namely :—
<table>
<tr><td>"176. Under section 523 of the Code of Civil Procedure, 190 , that an agreement to refer to arbitration be filed.</td><td>Ditto . . .</td><td>The date of the agreement.</td></tr>
<tr><td>176A. Under section 525 of the Code of Civil Procedure, 190 . that an award be filed.</td><td>Ditto . . .</td><td>The date on which any right given by the award is infringed by the person against whom it is sought to enforce such award."</td></tr>
</table>
</td></tr>
<tr><td>1882</td><td>IV</td><td>The Transfer of Property Act, 1882.</td><td>
In sections 86 and 89, after the words awarded to him the words and figures together with any interest allowed under section 222 of the Code of Civil Procedure, 190 , shall be inserted.
To section 89 the words and figures save in so far as is otherwise provided by sections 291 and 310A of the Code of Civil Procedure, 190 , shall be added.
In section 90, after the word mortgage the words and figures or when the sale is stopped under section 291, sub-section (3), of the Code of Civil Procedure, 190 , or is set aside under section 310A of the said Code shall be inserted.
</td></tr>
<tr><td>1884</td><td>XVIII</td><td>The Punjab Courts Act, 1884 .</td><td>
For section 70, sub-section (3), the following shall be substituted, namely :—
(3) Section 622 of the Code of Civil Procedure, 190 , shall not apply to the territories to which this Act extends.
</td></tr>
</table>

THE FIFTH SCHEDULE.

ENACTMENTS REPEALED.

(*See section 653B.*)

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Acts of the Governor General in Council.	
1870	VII	The Court-fees Act, 1870 . .	In section 16, *the words* on the hearing of such appeal.
1879	II	The Central Provinces Laws Act, 1879.	So much of section 2 as added a new section 11 to the Central Provinces Laws Act, 1875.
1882	XIV	The Code of Civil Procedure .	The whole Act.
"	XV	The Presidency Small Cause Courts Act, 1882.	The last paragraph of section 3.
1887	VII	The Suits Valuation Act, 1887 .	Section 11.
1888	VI	The Debtors Act, 1888 . .	Sections 2 to 8.
"	VII	The Civil Procedure Code Amendment Act, 1888.	So much as is unrepealed, except section 1, section 65 and section 66, sub-sections (*3*) and (*4*).
"	X	The Presidency Small Cause Courts Law Amendment Act, 1888.	So much as is unrepealed.
1889	XIII	The Cantonments Act, 1889 .	So much of the schedule as relates to Act XIV of 1882.
1890	VIII	The Guardian and Wards Act, 1890.	Section 53 and so much of the schedule as relates to Act XIV of 1882.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Act XIV of 1882 and Acts VI, VII and X of 1888.
1892	VI	The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892.	In the title and preamble *the words* and the Code of Civil Procedure *and* sections 2, 3 and 4.
1894	V	The Civil Procedure Code Amendment Act, 1894.	The whole Act.
1895	I	The Presidency Small Cause Courts Act, 1895.	Section 12.
"	VII	The Punjab Laws Act Amendment Act, 1895.	Sections 1, 2 and 3.
"	XIII	The Civil Procedure Code Amendment Act, 1895.	The whole Act.
1897	XIV	The Indian Short Titles Act, 1897.	So much as relates to Acts X of 1888 and XIII of 1895.
1900	VI	The Lower Burma Courts Act, 1900	So much of the schedules as relate to Act XIV of 1882.

J. M. MACPHERSON,
Secretary to the Government of India

2 O

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Short title.	Extent of repeal.
		Acts of the Governor General in Council.	
[illegible]	XVII	The Court-fees Act, 1870	In section 19, the words on the headings of such [illegible].
[illegible]	[illegible]	The Central Provinces Laws Act, 1875	So much of section 4 as relates to [illegible] the Central Provinces Laws Act, 1875.
[illegible]	XIV	The Code of Civil Procedure	The whole Act.
[illegible]	[illegible]	The Presidency Small Cause Courts Act, 1882	In section [illegible] the [illegible] words.
[illegible]	XVII	The India Volunteers Act, 1869	Section 11.
[illegible]	VI	The [illegible] Act, 1888	Sections 4 to [illegible].
[illegible]	VII	The Civil Procedure Code Amendment Act, 1888	So much as is unrepealed, except section [illegible] and section [illegible].
[illegible]	[illegible]	The Presidency Small Cause Courts (Amendment) Act, 1888	So much as is unrepealed.
[illegible]	XIII	The Cantonments Act, 1889	So much of the schedule as relates to Act [illegible] of 188[illegible].
[illegible]	VIII	The Guardians and Wards Act, 1890	Section [illegible] and so much of the schedule as relates to Act [illegible] of 1882.
[illegible]	XIV	The Repealing and Amending Act, 1891	So much of the schedule as relates to Acts XIV of 1882, VI, VII and X of 1888.
[illegible]	[illegible]	The Indian Limitation Act and Civil Procedure Code Amendment Act, 1894	In the title and preamble the words "and the Code of Civil Procedure", and sections [illegible].
[illegible]	[illegible]	The Civil Procedure Code Amendment Act, 1894	The whole Act.
[illegible]	[illegible]	The Presidency Small Cause Courts Act, 1895	Section [illegible].
[illegible]	VII	The Punjab Laws Act Amendment Act, 1895	Sections [illegible] and [illegible].
[illegible]	XIII	The Civil Procedure Code Amendment Act, 1895	The whole Act.
[illegible]	XIV	The Indian Short Titles Act, 1897	So much as relates to Acts [illegible] of 1888 and XIII of 1895.
[illegible]	VI	The Lower Burma Courts Act, 1900	So much of the schedule as relates to Act XIV of 1882.

J. M. MACPHERSON,
Secretary to the Government of India.

[illegible]

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 18th March, 1903:—

No. 9 OF 1903.

A Bill further to amend the Indian Income-tax Act, 1886.

WHEREAS it is expedient further to amend II of 1886. the Indian Income-tax Act, 1886; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Income-tax (Amendment) Act, 1903; and

(*2*) It shall come into force on the first day of April, 1903.

Amendments in Act II of 1886.

2. (*1*) In section 5, sub-section (*1*), clause (*j*), of the Indian Income-tax Act, 1886, for the words "five hundred" the words II of 1 "one thousand" shall be substituted.

(*2*) In section 41 of the said Act, for the words "forty-one rupees ten annas and eight pies" and "five hundred," the words "eighty-three rupees five annas and four pies" and "one thousand," respectively, shall be substituted.

(*3*) In the second column of Part III of the Second Schedule to the said Act, for the figures "500" the figures "1000" shall be substituted.

(*4*) For sub-head (*a*) in the second column of Part IV of the said Schedule the following sub-head shall be substituted, namely:—

"(*a*) If the annual income is assessed at—

not less than Rs. 1,000	but less than Rs. 1,250	the tax shall be Rs. 20
" " " 1,250	" " 1,500	" " 28
" " " 1,500	" " 1,750	" " 35
" " " 1,750	" " 2,000	" " 42

STATEMENT OF OBJECTS AND REASONS.

UNDER the present law, the limit below which incomes are not liable to income-tax is fixed at Rs. 500 per annum. It has been decided to raise this limit to Rs. 1,000 per annum; and the object of the present Bill is to give effect to that decision. No other change of any kind is proposed to be made.

E. FG. LAW.

The 16th March, 1903.

J. M. MACPHERSON,

Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, APRIL 9, 1903.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 25th March, 1903, and is hereby promulgated for general information :—

ACT NO. XI OF 1903.

An Act further to amend the Indian Income-tax Act, 1886.

II of 1886. WHEREAS it is expedient further to amend the Indian Income-tax Act, 1886; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Indian Income-tax (Amendment) Act, 1903; and

(*2*) It shall come into force on the first day of April, 1903.

Amendments in Act II of 1886.

2. (*1*) In section 5, sub-section (*1*), clause (*f*) of the Indian Income-tax Act, 1886, for the words "five hundred" the words "one thousand" shall be substituted. II of 18

(*2*) In section 41 of the said Act, for the words "forty-one rupees ten annas and eight pies" and "five hundred," the words "eighty three rupees five annas and four pies" and "one thousand," respectively, shall be substituted.

(*3*) In the second column of Part III of the Second Schedule to the said Act, for the figures "500" the figures "1,000" shall be substituted.

(*4*) For sub-head (*a*) in the second column of Part IV of the said Schedule the following sub-head shall be substituted, namely :—

"(*a*) If the annual income is assessed at—

not less than Rs.	1,000	but less than Rs.	1,250	the tax shall be	Rs.	20
,, ,, ,,	1,250	,, ,,	1,500	,,	,,	28
,, ,, ,,	1,500	,, ,,	1,750	,,	,,	35
,, ,, ,,	1,750	,, ,,	2,000	,,	,,	42"

J. M. MACPHERSON,

Secy. to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, AUGUST 13, 1903.

PART IV.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th August, 1903:

NO. 10 OF 1903.

A Bill to provide for the regulation of the possession and sale of all poisons in certain local areas, and the importation, possession and sale of white arsenic generally.

WHEREAS it is expedient to provide for the regulation of the possession and sale of all poisons in certain local areas, and the importation, possession and sale of white arsenic throughout the whole of British India; It is hereby enacted as follows:

Short title and extent.

1. (1) This Act may be called the Poisons Act, 1903; and

(2) It extends to the whole of British India.

Poisons generally.

Power to regulate possession for sale and sale of any poison in certain areas.

2. (1) Subject to the control of the Governor General in Council, the Local Government may, by rule, regulate within the limits of any municipality or cantonment the possession for sale and the sale, whether wholesale or by retail, of any poison.

(2) In particular, and without prejudice to the generality of the power conferred by sub-section (1), rules made thereunder may provide for, amongst other matters,—

(a) the grant of licenses to possess any poison for sale, wholesale or by retail;

(b) the classes of persons to whom alone such licenses may be granted;

(c) the classes of persons to whom alone any poison may be sold;

(d) the maximum quantity of any poison which may be sold to any one person;

(e) the maintenance by vendors of any poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same; and

(f) the labelling of packets in which any poison is sold or possessed for sale.

White Arsenic.

Power to prohibit imporation into British India of white arsenic except under license.

3. The Governor General in Council may, by notification in the Gazette of India, prohibit, except under and in accordance with the conditions of a license, the importation of white arsenic into British India, and may, by rule, regulate the grant of licenses and prescribe the conditions to be imposed thereby under this section.

Power to regulate possession for sale and sale of white arsenic throughout province.

4. (1) Subject to the control of the Governor General in Council, the Local Government may, by rule, regulate within the whole or any part of the

4 *a*

territories under its administration the possession for sale and the sale, whether wholesale or by retail, of white arsenic.

(2) In particular and without prejudice to the generality of the power conferred by sub-section (1), rules made thereunder may provide, amongst other matters, for all or any of the matters specified in section 2, sub-section (2).

(3) Rules made under sub-section (1) may further provide that no person shall sell any powdered white arsenic unless the same is, before the sale thereof, mixed with soot, indigo or Prussian blue in the proportion of half an ounce of soot, indigo or Prussian blue at least to one pound of the white arsenic, and so in proportion for any greater or less quantity:

Provided that, where such arsenic is stated by the purchaser to be required for some purpose for which such admixture would, according to the representation of the purchaser, render it unfit, such arsenic may be sold, without such admixture, in a quantity of not less than ten pounds at any one time.

Power to regulate possession of white arsenic in certain tracts.

5. (1) The Local Government, with the previous sanction of the Governor General in Council, may further, by rule, regulate the possession of white arsenic in any local area in which murder by poisoning with that drug or the offence of mischief by poisoning cattle therewith appears to it to be of such frequent occurrence as to render restrictions on the possession thereof desirable.

(2) In making any rule under sub-section (1), the Local Government may direct that any breach thereof shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, together with confiscation of the white arsenic in respect of which the breach has been committed, and of the vessels, packages or coverings in which the same is found.

Other Poisons.

[Cf. VIII of 1899, s. 22 (1).]

Power to apply Act to other poisons.

6. The Governor General in Council may, by notification in the Gazette of India, apply to any poison other than white arsenic all or any of the provisions of this Act relating exclusively to white arsenic.

Penalties and Procedure.

Penalty for unlawful importation, etc.

7. (1) Whoever,—

(a) commits a breach of any rule made under section 2 or section 4, or

(b) imports into British India, without a license, white arsenic the importation of which is for the time being restricted under section 3, or

(c) breaks any condition of a license for the importation of white arsenic granted to him under section 3,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Any poison in respect of which an offence has been committed under this section, together with the vessels, packages or coverings in which the same is found, and any animals and conveyances used in carrying it, shall be liable to confiscation.

Power to issue search-warrant.

8. (1) The District Magistrate, the Sub-divisional Magistrate and, in a Presidency-town, the Commissioner of Police, respectively, may issue a warrant for the search of any place in which he has reason to believe or to suspect that any poison is possessed for sale or sold in contravention of this Act or any rule thereunder or that any poison liable to confiscation under this Act is kept or concealed. [Cf. XII 1896, s. ...]

(2) The person to whom the warrant is directed may enter and search the place in accordance therewith, and the provisions of sections 47 to 49 of the Code of Criminal Procedure, 1898, shall, as far as may be, be deemed to apply to the execution of the warrant. V of 18[98]

Previous publication, etc., of rules.

9. (1) Every power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication. [Cf. ... 1899 ...]

(2) All rules made by the Governor General in Council or by the Local Government under this Act shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted by this Act.

Savings.

Savings.

10. (1) Nothing in this Act or in any license granted or rule made thereunder shall extend to or interfere with anything done in good faith in the exercise of his profession or business as such— [Cf. ... 32 Vict., ... 121, s. ...]

(a) by a medical practitioner, or

(b) by a chemist or druggist duly qualified to act as such under the law for the time being in force in the United Kingdom, or

(c) by a chemist or druggist dispensing or compounding in compliance with the prescription of a medical practitioner, or

(d) by a manufacturer of pharmaceutical preparations, sheep-dips or weed-killers, or

(e) by a tanner or hide-merchant.

(2) Notwithstanding anything hereinbefore contained, the Local Government may in its discretion, by general or special order, declare that all or any of the provisions of this Act shall not be deemed to apply to any article, or class of articles, of commerce specified in such order or to any poison, or class of poisons, used for any purpose so specified, and may, from time to time, alter or vary any such declaration.

STATEMENT OF OBJECTS AND REASONS.

THE question of restricting by legislation the sale and possession of poisons in India has been under the consideration of the Government for many years. It was at one time thought that the working of a general law on the subject would be attended with such difficulties as to render its enforcement all but impracticable. Among the reasons for this conclusion were the facts that some mineral poisons are largely used for legitimate purposes connected with trade, and that, since plants from which vegetable poisons can be extracted grow all over the country and are readily accessible, any restriction on the sale and possession of mineral poisons might result in inducing criminals to have recourse to the more subtle and less easily detected vegetable poisons, which could in no case be placed beyond their reach. On further consideration, however, it seems to the Government of India to be an extraordinary anomaly, which should be removed with the least practicable delay, that a deadly poison, such as arsenic, which is without taste or smell, which produces effects very similar to those of cholera, and which is known to be the agent most frequently employed for homicidal purposes, should be procurable in unlimited quantities in every part of India. There is, so far as the Government of India are aware, no other civilized country in the world in which the sale and possession of poisons is not carefully restricted, and it is thought that, notwithstanding the special conditions prevailing in India, a beginning at least in the direction of legislation should be made. This view is supported by the great mass of opinion which has been obtained from Local Governments and Administrations and from the several Chambers of Commerce and Trades Associations.

2. The only measure in the Indian Statute-book dealing with poisons generally is Bombay Act VIII of 1866; but that enactment extends only to the Province of Bombay, and even there, owing to defects in its form and limitations in its scope, it has produced but little effect. No provision is made in it for the inspection or searching of vendors' shops, and it places no restriction on the amount of poison which may be possessed or sold. In the United Provinces the matter is regulated by rules under section 128 (*1*) of the North-Western Provinces and Oudh Municipalities Act, 1900; but these have not been rigidly enforced and seem to have been virtually inoperative. The experience of the United Provinces seems, indeed, to show that the matter is one which cannot with safety be left to municipal control.

3. The present Bill provides in the first place (clause 2) for the control of the sale of poisons generally within municipalities and within cantonments, which often adjoin municipalities. It also (clause 3) authorises the prohibition of the importation of white arsenic into British India except under license, and (clauses 4 and 5) empowers the Local Government to regulate the sale of that poison within the whole or any part of the Province, and its possession in any area in which murder by poisoning with that drug, or the offence of mischief by poisoning cattle, is of frequent occurrence. It further (clause 6) takes power for the Governor General in Council to apply to any other poison the provisions relating to white arsenic, and thus there will be an immediate remedy at hand should it be found that other poisons are beginning to take the place of white arsenic for criminal purposes. Finally protection is secured (clause 10) for acts done in good faith by members of the medical profession and by chemists and others who deal with poisons in the ordinary course of their business. The measure will be permissive, and its effectiveness will depend entirely upon the extent to which it is applied, and upon the success attained in framing and enforcing rules under it.

DENZIL IBBETSON.

The 4th July, 1903.

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th August, 1903:

No. 11 OF 1903.

A Bill further to amend the Transfer of Property Act, 1882.

IV of 1882.

WHEREAS it is expedient further to amend the Transfer of Property Act, 1882; It is hereby enacted as follows:

Short title.

1. This Act may be called the Transfer of Property (Amendment) Act, 1903.

Amendment of section 1, paragraph 4, Act IV of 1882.

2. In the fourth paragraph of section 1 of the said Act, after the words "extend this Act" the words "or any part thereof" shall be inserted.

Amendment of section 59, Act IV of 1882.

3. In the second paragraph of section 59 of the said Act, for the words "an instrument" the words "a registered instrument" shall be substituted, and to the same paragraph the following proviso shall be added, namely:

"Provided that the Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local official Gazette, direct that all or any mortgages made within the territories under its administration or any part thereof, shall be effected only by such instruments as aforesaid."

Amendment of last paragraph of section 59 and of section 69, Act IV of 1882.

4. In the last paragraph of section 59 and in clause (*c*) of section 69 of the said Act, for the words "and Rangoon" and for the words "or Rangoon" the words "Rangoon, Moulmein, Bassein and Akyab" and the words "Rangoon, Moulmein, Bassein or Akyab" shall be respectively substituted.

Substitution of new paragraph for second paragraph of section 107, Act IV of 1882.

5. For the second paragraph of section 107 of the said Act the following paragraph shall be substituted, namely:

"All other leases of immoveable property may be made either by a registered instrument or by oral agreement accompanied by delivery of possession:

Provided that the Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local official Gazette, direct that leases of immoveable property, other than leases from year to year, or for any term exceeding one year, or reserving a yearly rent, may be made by unregistered instrument or by oral agreement without delivery of possession."

Amendment of section 117, Act IV of 1882.

6. In section 117 of the said Act, after the words "to be so applicable" the words "in the case of all or any of such leases" shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to make certain amendments in the Transfer of Property Act, 1882, which the Government of India have decided to undertake for the following reasons.

2. Under the Indian Registration Act, 1877, registration is compulsory in the case of certain documents and merely optional in that of others. Documents of the first class are practically of no effect unless registered, but those belonging to the latter are equally effective, whether registered or not, subject to this limitation, that, if unregistered, they are liable to be superseded by subsequent registered documents. Among the documents the registration of which is optional are those relating to the transfer of rights in immoveable property of less than Rs. 100 in value, and it is in consequence of the questions that have

arisen in connection with this latter class of documents that the present Bill has been prepared.

3. There was at one time a diversity of opinion as to the effect of section 50 of the Registration Act, which postpones all unregistered documents relating to land of which the registration is optional to a subsequent registered one of the same character. But it has recently been decided by all the chartered High Courts as well as by the Chief Court of the Punjab, that the section should be read subject to the equitable doctrine of notice, or, in other words, that an unregistered document should not be postponed to a registered one where it can be shown that the transferee under the latter had notice of the transfer evidenced by the former at the time when the latter was executed. These rulings did not appear to the Government of India to leave the law on a satisfactory footing. They learnt that in England there had been divergence of opinion with regard to the propriety of the recognition of the equitable doctrine of notice in connection with the construction of the English Registry Acts, and that that doctrine had in 1884 been deliberately abolished by Parliament in the case of the Yorkshire Registry, whilst past experience in this country had shown that the application of that doctrine in India was open to very grave objection. The Indian Registration Law prior to Act I of 1843 expressly provided for notice, and, as stated in the preamble to that Act, it was in consequence of the "forgeries, perjuries, fraudulent concealments and other practices" to which the application of the doctrine gave rise that that Act, which ignored the doctrine, was passed.

4. After giving the whole question very careful consideration the Government of India came to the conclusion that, instead of attempting to amend the provisions of the Registration Law as to priority between registered and unregistered instruments relating to the transfer of land in order to meet the difficulties to which the existing law gives rise, the better course would be so to amend the law on the subject of transfer of immoveable property as to make it impossible for such difficulties to arise in the case of future transfers of such property. It seemed to them that this result could be obtained if the law required all transfers of such property throughout India, when effected by written instruments, to be registered. They accordingly asked the opinion of Local Governments on the following proposals designed to carry out this intention :

(1) that the whole or certain sections of the Transfer of Property Act, 1882, should be extended to the parts of British India to which that Act had not yet been extended under the powers conferred by section 1, namely, the Punjab, and Lower Burma outside Rangoon ;

(2) that section 59 of the Act (relating to mortgages) should be amended so as to require all mortgages effected by written instruments to be registered, whatever the amount secured ; and

(3) that section 107 of the Act (relating to leases) should be amended so as to require all instruments of lease to be registered and all leases made by oral agreement to be accompanied or followed by possession.

5. With regard to the first point the Government of the Punjab objected strongly to the extension of the Act to that Province, and, as the arguments advanced by the Local Government against this proposal seemed to the Government of India to be of much force, this proposal has been abandoned in so far as the Punjab is concerned. The Government of Burma desired (1) to extend the whole of the Act to the towns of Moulmein, Bassein and Akyab, and to include those towns in the list of towns contained in sections 59 and 69 ; (2) to extend sections 54, 59, 107, 117, 118 and 123 to the whole of Lower Burma with the exception of areas to which the Registration Act does not apply and of specially backward tracts ; and (3) to take power to extend from time to time any part of the Act which may appear to it to be suitable to any part of the province. The amendments of the Act proposed in clauses 2 and 4 of the Bill are designed to enable the Local Government to give effect to its wishes in this respect.

6. Apart from the Punjab, all Local Governments accepted the second proposal which is given effect to by the amendment of the second paragraph of section 59 of the Act contained in clause 3 of the Bill. The proviso which it is further proposed to add to the same section of the Act is intended to give effect to a suggestion of the Government of Bengal that Local Governments should have power to require mortgages made within their territories, even when securing a less sum than Rs. 100, to be effected by registered instrument.

7. The third proposal was accepted by all Local Governments except the Governments of Bombay and Bengal, in deference to whose objections the Government of India have, while amending the second paragraph of section 107 of the Act, as originally proposed, in clause 5 of the Bill, added at the same time to the revised section a proviso reserving power to Local Governments to adopt or not to adopt, as they may think fit, the revised section in their respective provinces.

8. The Chief Commissioner of the Central Provinces made a further suggestion that a proviso should be added to section 107 of the Act on the lines of the proviso to section 17 of the Indian Registration Act in order to encourage the application of Chapter V of the latter Act to agricultural leases. Though the principle of the suggestion is accepted by the Government of India, it appears to them that it will be more simply and conveniently given effect to by amending section 117 of the Act as proposed in clause 6 of the Bill, so as to give power to Local Governments to limit the scope of any notification issued under that section to particular classes of agricultural leases.

The 24th July, 1903. DENZIL IBBETSON.

J. M. MACPHERSON,

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th August, 1903:

No. 12 OF 1903.

A Bill further to amend the Indian Tariff Act, 1894.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894; It is hereby enacted as follows: VIII of 1894.

Short title and duration.

1. (*1*) This Act may be called the Indian Tariff (Amendment) Act, 1903.

(*2*) Section 3 shall remain in force until the thirty-first day of March, 1904.

Amendment of section 8A, Act VIII, 1894.

2. In section 8A, sub-section (*1*), of the Indian Tariff Act, 1894, as amended by section 2 of the Indian Tariff Amendment Act, 1899, before the words "the exportation therefrom" the words "the production therein or" shall be inserted. VIII of 1894. XIV of 1899.

Addition of new section, 8C, to Act VIII, 1894.

3. After section 8B of the Indian Tariff Act, 1894, as amended by section 2 of the Indian Tariff (Amendment) Act, 1902, the following section shall be added, namely: VIII of 1894. VIII of 1902.

Continuation of duties chargeable under section 8A or 8B on 31st August, 1903.

"8C. Notwithstanding that the condition precedent to the imposition of a duty under section 8A may have ceased to exist, and notwithstanding anything in section 1, sub-section (*2*), of the Indian Tariff (Amendment) Act, 1902, any duties which may have been imposed and are chargeable under section 8A or section 8B on the thirty-first day of August, 1903, shall continue to be chargeable in accordance with any rules which may have been in force on the said date: VIII of 1902.

Provided that the Governor General in Council may, by notification in the Gazette of India, reduce the rate at which any such duty is levied, and amend or vary any such rules as aforesaid."

STATEMENT OF OBJECTS AND REASONS.

SECTION 8A of the Indian Tariff Act, 1894, provides for the levy of an additional duty on articles on which a bounty is given directly or indirectly by a foreign State, and section 8B provides for the levy of additional duties in certain cases in which high protective duties render possible the creation of bounties by private trade combinations or cartels. The majority of the chief sugar-producing countries of Europe have agreed to arrangements designed to secure the abolition of all bounties and high protective duties on sugar on the 1st of September, 1903. Large stocks of sugar exist in those countries on which bounties have been paid and which have been produced under the cartel system. The object of this Bill is to continue the present additional duties on sugar until the 31st of March, 1904, when it is expected that the greater part of the stocks which have received bounties will have been consumed.

The opportunity has been taken to make it clear that section 8A of the Act of 1894, as amended in 1899, extends to bounties or grants paid or bestowed upon production as well as upon exportation.

The 3rd August, 1903. E. FG. LAW.

J. M. MACPHERSON,

Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, SEPTEMBER 3, 1903.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 28th August, 1903, and is hereby promulgated for general information:

ACT NO. XII OF 1903.

An Act further to amend the Indian Tariff Act, 1894.

VIII of 1894. WHEREAS it is expedient further to amend the Indian Tariff Act, 1894; It is hereby enacted as follows:

Short title and duration.

1. (*1*) This Act may be called the Indian Tariff (Amendment) Act, 1903.

(*2*) Section 3 shall remain in force until the thirty-first day of March, 1904.

Amendment of section 8A, Act VIII, 1894.

2. In section 8A, sub-section (*1*), of the Indian Tariff Act, 1894, as amended by section 2 of the Indian Tariff Amendment Act, 1899, before the words "the exportation therefrom" the words "the production therein or" shall be inserted. (VIII of 1894; XIV of 18[99])

Addition of new section, 8C, to Act VIII, 1894.

3. After section 8B of the Indian Tariff Act, 1894, as amended by section 2 of the Indian Tariff (Amendment) Act, 1902, the following section shall be added, namely: (VIII of 18[94]; VIII of 19[02])

Continuation of duties chargeable under section 8A or 8B on 31st August, 1903.

"8C. Notwithstanding that the condition precedent to the imposition of a duty under section 8A may have ceased to exist, and notwithstanding anything in section 1, sub-section (*2*), of the Indian Tariff (Amendment) Act, 1902, any duties which may have been imposed and are chargeable under section 8A or section 8B on the thirty-first day of August, 1903, shall continue to be chargeable in accordance with any rules in force on the said date: (VIII of 19[02])

Provided that the Governor General in Council may, by notification in the Gazette of India, reduce the rate at which any such duty is levied, and amend or vary any such rules as aforesaid."

J. M. MACPHERSON,

Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, SEPTEMBER 3, 1903.

PART IV.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 28th August, 1903:

NO. 13 OF 1903.

A Bill to amend the Indian Official Secrets Act, 1889.

WHEREAS it is expedient to amend the Indian Official Secrets Act, 1889; It is hereby enacted as follows: XV of 1889.

Short title.

1. This Act may be called the Indian Official Secrets (Amendment) Act, 1903.

Amendment of section 3, Act XV, 1889.

2. In section 3 of the Indian Official Secrets Act, 1889, the following alterations shall be made, namely: XV of 1889.

(a) in sub-section (1), sub-head (a), for the words "for the purpose of wrongfully obtaining information" the words "without lawful authority or permission (the proof whereof shall be upon him)" shall be substituted;

(b) in clause (ii) of the same sub-section and sub-head,—

(i) after the words "obtains" and "obtain" the words "or attempts to obtain" and "or any copy of any such document, sketch, plan or model," respectively, shall be inserted, and

(ii) the words "without lawful authority" shall be omitted;

(c) in clause (iii) of the same sub-section and sub-head, the words "without authority given by or on behalf of Her Majesty" shall be omitted; and

(d) in sub-head (c) of the same sub-section and in sub-section (2), for the words "naval or military" the words "naval, military or civil" shall be substituted.

Substitution of sections for section 5, Act XV, 1889.

3. For section 5 of the said Act the following sections shall be substituted, namely:

Offences under Act cognizable and non-bailable.

"5. Notwithstanding anything in the Code of Criminal Procedure, 1898, every offence against this Act shall, for the purposes of the said Code, be deemed to be cognizable and non-bailable. V of 1898.

Procedure after arrest on charge of certain offences punishable under Act.

"6. (1) Notwithstanding anything contained in section 59 or section 60 of the said Code, any private person or police-officer who has arrested any person on a charge of an offence under section 3, sub-section (1), sub-head (a), and any police-officer to whom any person arrested on any such charge has been made over, may, instead of making over the person so arrested to a police-officer or taking him to the nearest police-station or taking or sending him before a Magistrate having, subject to the provisions of section 7, jurisdiction in the case or before the officer in charge of a police-station, as the case may be, take or send him before the commanding officer for the time being of the nearest military station or such other officer as the Local Government or the Governor General in Council may, by general or special order, direct in this behalf.

(2) Where any person has been taken or sent before the commanding or other officer in accordance with sub-section (*1*), such officer may, if he thinks fit, discharge such person, but, if he does not discharge him, shall, without unnecessary delay, take or send him to the nearest police-station or to any Magistrate having, subject to the provisions of section 7, jurisdiction in the case.

(3) Where any person has been taken or sent to a police-station or to a Magistrate under sub-section (*2*), the provisions of the Code of Criminal Procedure, 1898, shall, save as otherwise provided by section 7, apply to him as though he had been taken to such police-station or Magistrate without being taken or sent before the officer commanding the station or other officer. V of 1898.

"7. No Magistrate or Court shall proceed to the trial of any person for an offence against this Act except with the consent of the Local Government or the Governor General in Council."

Restriction on trial of offences.

STATEMENT OF OBJECTS AND REASONS.

THE present Bill is designed to remedy certain defects disclosed by experience in the Indian Official Secrets Act, 1889 (XV of 1889), and tending to render it less effective for the objects which it had in view.

Clause 2.—The criminality of the acts specified in section 3 should be made to depend less on the purpose with which they are done—which is hardly susceptible of proof—than on the fact that they are committed "without lawful authority or permission"; the burden of proof as to the grant of such authority or permission being placed on the person charged as a matter especially within his knowledge. It should also be made clear that the section applies to the divulging of secret information connected with the civil administration as well as naval and military affairs, and it is proposed to extend it so as to cover attempts, and further to apply to copies of documents the provisions at present limited to originals.

Clause 5 introduces certain amendments which are necessary to permit of offenders being arrested without delay and to authorise Courts to take preliminary action in cases brought before them in anticipation of Government sanction being obtained to a prosecution. At the same time facilities are introduced by which a person who is arrested may be taken at once before some superior and responsible officer, who will discharge him unless he sees reason for taking the matter into Court.

A. T. ARUNDEL.

The 7th August, 1903.

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 28th August, 1903:

No. 14 of 1903.

A Bill to give effect to the Foreign Marriages Order in Council, 1903.

WHEREAS it is expedient to give effect to the Foreign Marriages Order in Council, 1903; It is hereby enacted as follows:

Short title, extent and application.

1. (*1*) This Act may be called the Indian Foreign Marriage Act, 1903.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas, the Shan States, and the Pargana of Spiti; and

(*3*) It applies also to all British subjects and to all servants of the King, whether British subjects or not, in the territories of any Native Prince or State in India.

Notice of marriage intended to be solemnized under 55 & 56 Vict., c. 23.

55 & 56 Vict., c. 23.

2. (*1*) Notice in writing of a marriage which it is intended to solemnize under the Foreign Marriage Act, 1892, may be given by one of the parties intending such marriage, to—

XV of 1872.

(*a*) a Marriage Registrar appointed under the Indian Christian Marriage Act, 1872, where either of such parties is a person professing the Christian religion;

(*b*) a District Magistrate, Chief Presidency Magistrate or Political Agent, where neither of such parties is a person professing the Christian religion:

Provided that the party giving such notice as aforesaid shall have had his usual place of abode for not less than three consecutive weeks immediately preceding the giving of notice within the local limits of the area for which the Marriage Registrar, Magistrate or Political Agent to whom the notice is given, is appointed.

(*2*) Every notice given under this section shall state—

(*a*) the name and description of each of the parties intending marriage;

(*b*) the residence of each of them;

(*c*) the time during which each of them has dwelt there; and

(*d*) the place in which the intended marriage is to be solemnized;

and it shall contain a declaration by the party giving the notice to the effect that he believes that there is no impediment of kindred or affinity or other lawful hindrance to the solemnization of the said intended marriage.

(*3*) A copy of every notice given under this section shall be published by being affixed in some conspicuous place in the office of the officer to whom the notice is given.

(*4*) On the expiration of four clear days after such notice as aforesaid has been published in the manner prescribed by sub-section (*3*), the officer to whom the notice is given, unless he is aware of any impediment of kindred or affinity or other lawful hindrance to the solemnization of the said intended marriage, shall, on payment of such fee (if any) as the Governor General in Council may fix in this behalf, furnish the party by whom the notice was given, with a certificate, under his hand and seal, to the effect that the notice has been so given and published.

STATEMENT OF OBJECTS AND REASONS.

THE Foreign Marriages Order in Council, 1903, directs that, if a marriage officer proceeding under the Foreign Marriage Act, 1892 (55 & 56 Vict., c. 23), is satisfied that such notice of an intended marriage has been given by a party dwelling in India as may be required by any law of the Governor General in Council giving effect to that Order, such notice shall be sufficient for the purposes of the Statute; and it is further explained that a law of the Indian Legislature shall be deemed to give effect to the Order if it provides—

(1) that notice of a marriage intended to be solemnized under the Statute referred to may be given by one of the parties intending such marriage, who has had his or her usual place of abode for three consecutive weeks immediately preceding in some place in India, to such marriage registrar or other officer as may be designated by the law in this behalf;

(2) that such notice shall be published either by proclamation of banns or in such other manner as the law may provide; and

(3) that such marriage registrar or other officer, unless he is aware of any impediment or objection which should obstruct the solemnization of the marriage, shall, on payment of such fee, if any, as the law may fix, give a certificate that the said notice has been so given and published as aforesaid.

The present Bill is intended to give effect to this Order in Council.

The 21st August, 1903. A. T. ARUNDEL.

J. M. MACPHERSON,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 28th August, 1903:

No. 15 OF 1903.

A Bill further to amend the Lepers Act, 1898.

III of 1898. WHEREAS it is expedient further to amend the Lepers Act, 1898, by providing for the segregation and medical treatment in British India of lepers belonging to Native States; It is hereby enacted as follows:

Short title.

1. This Act may be called the Lepers (Amendment) Act, 1903.

Addition of new section after section 18, Act III, 1898.

2. After section 18 of the Lepers Act, 1898, the following section shall be added, namely: III of 1898.

Lepers from Native States.

"19. The Governor General in Council may, by notification in the Gazette of India, direct that any leper or class of lepers, with respect to whom an order for segregation and medical treatment has been made by a Magistrate having jurisdiction within the territories of any Native Prince or State in India, may be sent to any leper-asylum specified in such order; and thereupon the provisions of this Act and of any rules made thereunder shall, with such modifications not affecting the substance as may be reasonable and necessary to adapt them to the subject-matter, apply to any leper sent to a leper-asylum in pursuance of such notification as though he had been sent by the order of a Magistrate having jurisdiction under this Act."

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is, as stated in the preamble, to provide, by an amendment of the Lepers Act, 1898 (III of 1898), for the segregation and medical treatment of lepers belonging to Native States. The Act extends as a territorial law only to British India, a person brought from a Native State in police custody is not a "pauper leper" within the meaning of section 2, and a Local Government cannot, under section 3 as it stands, specify local areas in Native States from which lepers may be sent, for the purposes of the Act, to a British Indian leper-asylum.

The 22nd August, 1903.

T. RALEIGH.

J. M. MACPHERSON,

Secretary to the Government of India.

4 *b*

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, SEPTEMBER 24, 1903.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 18th September, 1903, and is hereby promulgated for general information:

ACT NO. XIII OF 1903.

An Act further to amend the Lepers Act, 1898.

III of 1898. WHEREAS it is expedient further to amend the Lepers Act, 1898, by providing for the segregation and medical treatment in British India of lepers belonging to Native States; It is hereby enacted as follows:

Short title. **1.** This Act may be called the Lepers (Amendment) Act, 1903.

Addition of new section after section 18, Act III, 1898. **2.** After section 18 of the Lepers Act, 1898 the following section shall be added, namely: III of 1898.

Lepers from Native States. "19. The Governor General in Council may, by notification in the Gazette of India, direct that any leper or class of lepers, with respect to whom an order for segregation and medical treatment has been made by a Magistrate having jurisdiction within the territories of any Native Prince or State in India, may be sent to any leper-asylum specified in such order; and thereupon the provisions of this Act and of any rules made thereunder shall, with such modifications not affecting the substance as may be reasonable and necessary to adapt them to the subject-matter, apply to any leper sent to a leper-asylum in pursuance of such notification as though he had been sent by the order of a Magistrate having jurisdiction under this Act"

J. M. MACPHERSON,

Secretary to the Government of India.

4a

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, OCTOBER 29, 1903.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 23rd October, 1903, and is hereby promulgated for general information:

ACT NO. XIV OF 1903.

An Act to give effect to the Foreign Marriages Order in Council, 1903.

WHEREAS it is expedient to give effect to the Foreign Marriages Order in Council, 1903; It is hereby enacted as follows:

Short title, extent and application.

1. (1) This Act may be called the Indian Foreign Marriage Act, 1903.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas, the Shan States and the Pargana of Spiti; and

(3) It applies also to all British subjects and to all servants of the King, whether British subjects or not, in the territories of any Native Prince or State in India.

55 & 56 Vict., c. 23.

Notice of marriage intended to be solemnized under 55 & 56 Vict., c. 23.

2. (1) Notice in writing of a marriage which it is intended to solemnize under the Foreign Marriage Act, 1892, may be given by one of the parties intending such marriage, to—

XV of 1872.

(a) a Marriage Registrar appointed under the Indian Christian Marriage Act, 1872, where either of such parties is a person professing the Christian religion;

(b) a District Magistrate, Chief Presidency Magistrate or Political Agent, where neither of such parties is a person professing the Christian religion:

Provided that the party giving such notice as aforesaid shall have had his usual place of abode for not less than three consecutive weeks immediately preceding the giving of notice within the local limits of the area for which the Marriage Registrar, Magistrate or Political Agent to whom the notice is given, is appointed.

(2) Every notice given under this section shall state—

(a) the name, surname, age and profession or condition of each of the parties intending marriage;

(b) the residence of each of them;

(c) the time during which each of them has dwelt there; and

(d) the place in which the intended marriage is to be solemnized;

and it shall contain a declaration by the party giving the notice to the effect that he believes that there is no impediment of kindred or affinity or other lawful hindrance to the solemnization of the said intended marriage.

(3) A copy of every notice given under this section shall be published by being affixed in some conspicuous place in the office of the officer to whom the notice is given.

(4) On the expiration of four clear days after such notice as aforesaid has been published in the manner prescribed by sub-section (3), the officer to whom the notice is given, unless he is aware of any impediment of kindred or affinity or other lawful hindrance to the solemnization of the said intended marriage, shall, on payment of such fee (if any) as the Governor General in Council may fix in this behalf, furnish the party by whom the notice was given, with a certificate, under his hand and seal, to the effect that the notice has been so given and published.

J. M. MACPHERSON,
Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, OCTOBER 29, 1903.

PART IV.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 23rd October, 1903:

No. 16 OF 1903.

THE ANCIENT MONUMENTS' PRESERVATION BILL.

CONTENTS.

SECTIONS.

The Ancient Monuments' Preservation Bill.

(Sections 1-3. Ancient Monuments.—Sections 4 5.)

A Bill to provide for the preservation of Ancient Monuments and of objects of archæological, historical or artistic interest.

WHEREAS it is expedient to provide for the preservation of ancient monuments, for the exercise of control over traffic in antiquities and over excavation in certain places, and for the protection and acquisition in certain cases of ancient monuments and of objects of archæological, historical or artistic interest; It is hereby enacted as follows:

Short title, extent and commencement.

1. (*1*) This Act may be called the Ancient Monuments' Preservation Act, 1903.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Sonthal Parganas and the Pargana of Spiti; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "ancient monument" means any structure, erection or monument, or any tumulus or place of interment, or any rock-sculpture, inscription or monolith, which is of historical, archæological or artistic interest, or any remains thereof, and includes—

(*a*) the site of an ancient monument;

(*b*) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument; and

(*c*) the means of access to and convenient inspection of an ancient monument:

(2) "antiquities" include any moveable objects which the Government, by reason of their historical or archæological associations, may think it necessary to protect against injury, removal or dispersion:

(3) "Commissioner" means the chief revenue-officer of a division, and includes any officer authorized by the Local Government to perform the duties of a Commissioner under this Act:

(4) "excavation" means any removal or disturbance of the soil for the purpose of searching for buried ancient monuments or for antiquities or for treasure as defined by the Indian
VI of 1878. Treasure-trove Act, 1878:

(5) "maintain" and "maintenance" include the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of maintaining a protected monument or of securing convenient access thereto:

(6) "land" includes a revenue-free estate, a revenue-paying estate, and a permanent transferable tenure, whether such estate or tenure be subject to incumbrances or not: and

(7) "protected monument" means any ancient monument which the Local Government may, by notification in the local official Gazette, declare to be subject to the provisions of this Act.

Evidence that any structure, etc., is an ancient monument.

3. An order in writing, signed by a Secretary to the Local Government, and stating that any structure, erection, tumulus, place of interment, sculpture, inscription or monolith is an ancient monument within the meaning of this Act, shall be conclusive evidence of that fact.

Ancient Monuments.

Acquisition of rights in or guardianship of an ancient monument by Commissioner.

4. (*1*) The Commissioner may, with the sanction of the Local Government, purchase or take a lease of any protected monument.

(*2*) The Commissioner may, with the sanction of the Local Government, accept a gift or bequest of any protected monument.

(*3*) The owner of any protected monument may, by written instrument, constitute the Commissioner the guardian of the monument, and the Commissioner may, with the sanction of the Local Government, accept such guardianship.

(*4*) When the Commissioner has accepted the guardianship of a monument under sub-section (*3*), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Commissioner had not been constituted guardian thereof.

(*5*) When the Commissioner has accepted the guardianship of a monument under sub-section (*3*), the provisions of this Act relating to agreements executed under section 5 shall apply to the written instrument executed under the said sub-section.

Preservation of ancient monument by agreement.

5. (*1*) The Collector may, with the previous sanction of the Local Government, propose to the owner to enter into an agreement with the Secretary of State for India in Council for the preservation of any protected monument in his district.

(*2*) An agreement under this section may provide for the following matters, or for such of them as it may be found expedient to include in the agreement—

(*a*) the maintenance of the monument;

(*b*) the custody of the monument, and the duties of any person who may be employed to watch it;

(*c*) the restriction of the owner's right to destroy, remove, alter or deface the monument;

(*d*) the facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the Collector to inspect or maintain the monument;

(*e*) the notice to be given to the Government in case the land on which the monument is situated is offered for sale by the owner, and the right to be reserved to the Government to purchase such land, or any specified portion of such land, at its market-value;

(*f*) the payment of any expenses incurred by the owner or by the Government in connection with the preservation of the monument;

(*g*) the proprietary or other rights which are to vest in the Government in respect of the monument when any expenses are incurred by the Government in connection with the preservation of the monument; and

The Ancient Monuments' Preservation Bill.

(Ancient Monuments.—Sections 6 12.)

(*h*) any matter connected with the preservation of the monument which is a proper subject of agreement between the owner and the Government.

(*3*) An agreement under this section may be executed by the Collector on behalf of the Secretary of State for India in Council, but shall not be so executed until it has been approved by the Local Government.

(*4*) An agreement under this section may be terminated by the Collector or by the owner on giving six months' notice in writing.

Owners under disability or not in possession.

6. (*1*) If the owner is unable, by reason of infancy or other disability, to act for himself, an agreement under section 5 may be made and executed by the person legally competent to act on his behalf.

(*2*) If a protected monument belongs to joint-owners one of whom is invested with powers of management on behalf of the others, an agreement under section 5 may be executed by such managing owner, after giving one month's notice in writing to the other owners.

(*3*) In the case of village property, an agreement under section 5 may be executed by the headman or other village-officer exercising powers of management over such property.

Variation and enforcement of agreement.

7. (*1*) The terms of an agreement under section 5 may be altered from time to time, with the consent of the owner or of the person competent to make an agreement under that section.

(*2*) If the Collector has reason to apprehend that the owner or occupier of a monument intends to destroy, remove, deface or imperil the monument in contravention of the terms of an agreement for its preservation under section 5, the Collector may make an order prohibiting any such contravention of the agreement.

(*3*) If an owner who has entered into an agreement for the preservation or maintenance of a monument under section 5 refuses or neglects to do any act necessary to such preservation or maintenance, the Collector may authorize any person to do any such act, and the expense of doing any such act or such portion of the expense as the owner may be liable to pay under the agreement may be recovered from the owner as if it were an arrear of land-revenue.

(*4*) A person aggrieved by an order made under this section may appeal to the Commissioner, who may cancel or modify it and whose decision shall be final.

Purchaser, etc., bound by instrument executed by owner.

8. Every person who purchases, at a sale for arrears of land-revenue or any other public demand, or at a sale made under the Bengal Patni Taluks Regulation, 1819, an estate or tenure in which is situated a monument in respect of which any instrument has been executed by the owner for the time being, under section 4 or section 5, and every person claiming any title to a monument from, through or under an owner who executed any such instrument, shall be bound by such instrument.

VIII of 1819.

Application of endowment to repair of an ancient monument.

9. If any owner fails to enter into an agreement proposed to him under section 5 for the preservation of a protected monument, and if any endowment has been created for the purpose of keeping such monument in repair, or for that purpose among others, the Collector may institute a suit in the Court of the District Judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the District Judge for the proper application of such endowment or part thereof.

Pre-emption of ancient monument in case of sale.

10. (*1*) If any protected monument, or the land on which any such monument is situated, is about to be sold, the owner shall send a written notice to the Collector, stating the price at which he is willing to sell the monument or the land, as the case may be, and the Government shall have a prior right to purchase such monument or land at its market-value.

(*2*) Sub-section (*1*) shall not apply in any case where an offer to sell is addressed only to members of the family or of any religious association to which the vendor belongs.

(*3*) If the effect of a purchase made by the Government under sub-section (*1*) is to diminish the market-value of any land offered for sale, other than the land purchased by Government, the vendor shall be entitled to compensation, the amount of such compensation to be ascertained in the manner provided by the Land Acquisition Act, 1894. I of 189[4]

Compulsory purchase of ancient monument.

11. The preservation of a protected monument shall be deemed to be a "public purpose" within the meaning of the Land Acquisition Act, 1894: I of 18[94]

Provided, *first*, that the powers of compulsory purchase conferred by that Act shall not be exercised in the case of—

(*a*) any monument which or any part of which is periodically used for religious observances; or

(*b*) any monument which is the subject of a subsisting agreement executed under section 5:

Provided, *secondly*, that, in any case other than the cases referred to in the first proviso, the said powers of compulsory purchase shall not be exercised unless the owner has failed, within a reasonable period, to enter into an agreement proposed to him under the said section:

Provided *thirdly*, that, when making an enquiry under the said Land Acquisition Act as to the value of a monument, the Collector shall be assisted by two assessors, one of whom shall be nominated by the Collector and one by the owner or, in his default, by the Collector:

Provided, *fourthly*, that in assessing such value the archæological, artistic or historical merits of the monument shall not be taken into account.

Maintenance of certain protected monuments.

12. (*1*) The Commissioner shall maintain every monument in respect of which the Government has acquired any of the

The Ancient Monuments' Preservation Bill.

(Ancient Monuments.—Sections 13-17. Traffic in Antiquities.—Section 18. Protection of Sculptures Inscriptions, Carvings, etc.—Section 19.)

rights mentioned in section 4 or which the Government has acquired under section 10 or section 11.

(2) When the Commissioner has accepted the guardianship of a monument under section 4, he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his subordinates and workmen, for the purpose of inspecting the monument, and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

Voluntary contributions.

13. The Commissioner may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by him:

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

Protected monument not to be diverted to unsuitable purpose.

14. A monument maintained by the Government under this Act shall not be used for any purpose inconsistent with its character, or with the purpose of its foundation, so far as the same can be ascertained.

Relinquishment of Government rights in a monument.

15. With the sanction of the Local Government, the Commissioner may—

(a) where rights have been acquired by Government in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish the rights so acquired to the person who would for the time being be the owner of the monument if such rights had not been acquired, or

(b) relinquish any guardianship of a monument which he has accepted under this Act.

Access to certain protected monuments.

16. (1) Subject to such rules as may after previous publication be made by the Local Government, the public shall have a right of access, free of charge, to any monument maintained by the Government under this Act.

(2) In making any rule under sub-section (1), the Local Government may provide that a breach of it shall be punishable with fine which may extend to twenty rupees.

Penalties.

17. Any person other than the owner who destroys, removes, injures, defaces or imperils a protected monument, and any owner who destroys, removes, injures, defaces or imperils a monument maintained by Government under this Act or in respect of which an agreement has been executed under section 5, and any owner or occupier who contravenes an order made under section 7, sub-section (2), shall, on conviction by a Magistrate of the first or second class, be punishable with fine which may extend to one thousand rupees, or with imprisonment which may extend to one month, or with both.

Traffic in Antiquities.

Power to control traffic in antiquities.

18. (1) If the Governor General in Council has reason to apprehend that antiquities are being sold or removed to the detriment of India or of any neighbouring country, he may, by notification in the Gazette of India, prohibit or restrict the bringing or taking by sea or by land of any object or objects described in the notification into or out of British India or any specified part of British India.

(2) Any person who brings or takes or attempts to bring or take any such object into or out of British India or any part of British India in contravention of a notification issued under sub-section (1), shall, on conviction by a Magistrate of the first or second class, be punishable with fine which may extend to five hundred rupees.

(3) Every object in respect of which an offence referred to in sub-section (2) has been committed shall be liable to confiscation.

(4) An officer of customs, or an officer of police of a grade not lower than Sub-Inspector, duly empowered by the Local Government in this behalf, may search any vessel, cart or other means of conveyance, and may open any baggage or package of goods, if he has reason to believe that goods in respect of which an offence has been committed under sub-section (2) are contained therein.

(5) A person who complains that the power of search mentioned in sub section (4) has been vexatiously or improperly exercised may address his complaint to the Local Government, and the Local Government shall pass such order and may award such compensation, if any, as appears to it to be just.

Protection of Sculptures, Inscriptions, Carvings, etc.

Control over removal of sculptures, etc.

19. (1) If the Local Government considers that any sculptures, carvings, images, bas-reliefs, inscriptions or other like objects ought not to be removed from the place where they are without the sanction of the Government, the Local Government may, by notification in the local official Gazette, direct that any such object or any class of such objects shall not be removed unless with the written permission of the Collector.

(2) A person applying for the permission mentioned in sub-section (1) shall specify the object or objects which he proposes to remove, and shall furnish, in regard to such object or objects, any information which the Collector may require.

(3) If the Collector refuses to grant such permission, the applicant may appeal to the Commissioner, whose decision shall be final.

(4) Any person who removes any object in contravention of a notification issued under sub-section (1), shall, on conviction by a Magistrate of the first or second class, be punishable with fine which may extend to five hundred rupees.

(5) In the case of any moveable object comprised in a notification under sub-section (1), the Local Government shall, on the requisition of the owner, purchase such object, and in the

The Ancient Monuments' Preservation Bill.

(Protection of Sculptures, Inscriptions, Carvings, etc.—Section 20. Excavations.—Section 21. General.—Sections 22-23.)

case of any immoveable object so comprised, if the owner proves to the satisfaction of the person appointed as hereinafter provided that he has sustained any loss by reason of such object being so comprised, the Local Government shall pay compensation in respect of such loss.

The price or the compensation to be paid by the Local Government under this sub-section shall be assessed by a competent person appointed by the Local Government with the consent of the owner.

Purchase of sculptures, etc., by the Government.

20. (*1*) If the Local Government has reason to apprehend that any object mentioned in a notification issued under section 19, sub-section (*1*), is in danger of being destroyed, removed, injured or allowed to fall into decay, the Local Government may direct the Collector to purchase such object, and the Collector shall thereupon give notice to the owner of the object to be purchased.

(*2*) The Collector shall consider any claim and any evidence of value which may be presented on behalf of such owner, and shall assess the value of the object to be purchased.

(*3*) The owner may appeal to the Local Government against the Collector's assessment, and the Local Government, after considering such further evidence (if any) as may be presented on behalf of the owner, may pass such order as it thinks fit.

(*4*) The property in the object to be purchased shall be vested in the Government on payment of six-fifths of the value assessed by the Collector or by the Local Government, as the case may be.

(*5*) The power of compulsory purchase given by this section shall not extend to—

(*a*) any image or symbol actually used for the purpose of any religious observance, or

(*b*) anything which the owner desires to retain on any ground personal to himself or to any of his ancestors, or to any member of his family.

Excavations.

Power to control excavation.

21. (*1*) If the Local Government is of opinion that excavation within the limits of any local area ought to be restricted or regulated, the Local Government may, by notification in the local official Gazette, make rules—

(*a*) fixing the boundaries of the area to which the rules are to apply; and

(*b*) prescribing the authority by which, and the terms on which, licenses to excavate may be granted.

(*2*) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(*3*) A rule made under this section may provide that any person committing a breach thereof shall, on conviction by a Magistrate of the first or second class, be punishable with fine which may extend to two hundred rupees.

(*4*) If any owner or occupier of land included in a notification under sub-section (*1*) proves to the satisfaction of the Local Government that he has sustained any loss by reason of such land being so included, the Local Government shall pay compensation in respect of such loss, and the amount of such compensation shall be assessed by a competent person appointed by the Local Government with the consent of the owner.

General.

Power to make rules.

22. (*1*) The Governor General in Council or the Local Government may make rules for carrying out any of the purposes of this Act.

(*2*) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

No suit in respect of acts done in exercise of powers given by Act.

23. No suit or other legal proceeding shall lie against any person in respect of any act done, or in good faith intended to be done, in the exercise of any power conferred by this Act.

STATEMENT OF OBJECTS AND REASONS.

THE object of this measure is to preserve to India its ancient monuments, to control the traffic in antiquities, and to prevent the excavation by ignorant or unauthorised persons of sites of historic interest and value.

2. In 1898 the question of antiquarian exploration and research attracted attention, and the necessity for taking steps for the protection of monuments and relics of antiquity was impressed upon the Government of India. It was then apparent that legislation was required to enable the Government effectually to discharge their responsibilities in the matter, and a Bill was drafted on the lines of existing Acts of Parliament, modified so as to embody certain provisions which had found a place in recent legislation regarding the antiquities of Greece and Italy. This draft was circulated for the opinions of Local Governments, and the replies submitted showed that the proposals incorporated in it met with almost unanimous approval, the criticisms received being directed, for the most part, against matters of detail. The draft has since been revised; the provisions of a draft Bill prepared by the Government of Bengal have been embodied, so far as they were found suitable, and the present Bill is the result.

3. The first portion of the Bill deals with the protection of "ancient monuments," an expression which has been defined in clause 2. The measure will apply only to such of these

as are from time to time expressly brought within its compass through being declared to be "protected monuments." The greater number of the more famous buildings in India are already in the possession or under the control of the Government; but there are others worthy of preservation which are in the hands of private owners. Some of these have already been injured or are fast falling into decay. The preservation of these is the chief object of the clauses of the Bill now referred to, and the provisions of the Bill are in general accordance with the policy enunciated in section 23 of the Religious Endowments Act, 1863 (XX of 1863), which recognises and saves the right of the Government "to prevent injury to, and preserve, buildings remarkable for their antiquity and for their historical or architectural value, or required for the convenience of the public." The power to intervene is at present limited to cases to which section 3 of Bengal Regulation XIX of 1810 or section 3 of Madras Regulation VII of 1817 applies. In framing the present Bill, the Government have aimed at enlisting the interest and good-will and securing the co-operation of the owners concerned, and it is hoped that the line of action which it is proposed to take may tend rather to the encouragement than to the suppression of private effort. The Bill provides that the owner or manager of a building which merits greater care than it has been receiving, may be invited to enter into an agreement for its protection, and that, in the event of his refusing to come to terms, the Collector may proceed to acquire it compulsorily, or, if there is an endowment, move the Courts to secure its proper application. It has been made clear that there is to be no resort to compulsory acquisition in the case of a monument used in connection with religious observances, or in any other case until the owner has had an opportunity of entering into an agreement of the kind indicated above; and it is expressly provided that a monument maintained by the Government under the proposed Act shall not be used for any purpose inconsistent with its character or with the purposes of its foundation, and that, so far as is compatible with the object in view, the public shall have access to it free of charge. By the fourth proviso to clause 11 it is laid down that, in assessing the value of a monument for the purposes of compulsory acquisition under the Land Acquisition Act, 1894 (I of 1894), its archæological, artistic or historical merits shall not be taken into account. The object of the Government as purchaser being to preserve, at the public expense and for the public benefit, an ancient monument along with all its associations, it is considered that the value of those associations should not be paid for.

4. The second portion of the Bill deals with moveable objects of historical or artistic interest, and these may be divided into two classes. The first consists of arms, enamels, silver and copper vessels, Persian and Arabic manuscripts, and curios generally. These are for the most part portable and consequently difficult to trace; they are as a rule of artistic, rather than historic, interest; and it would be impracticable, even were it desirable, to prevent a dealer from selling, or a traveller from buying, them. But sculptural carvings, images, bas-reliefs, inscriptions and the like form a distinct class by themselves, in that their value depends upon their local connection. Such antiquities may, as in the case of those of Swat, be found outside the confines of India or in Native States, and these the legislature cannot reach directly; while, as regards British territory and under the existing law, it is impossible to go beyond the provisions of the Indian Treasure-trove Act, 1878 (VI of 1878). In these circumstances, it is proposed, by clause 18 of the Bill, to take power to prevent the removal from British India of any antiquities which it may be deemed desirable to retain in the country, and at the same time to prevent importation. By thus putting a stop to traffic in such articles, it is believed that it will be possible to protect against spoliation a number of interesting places situated without and beyond British territory. Clause 19 aims at providing for antiquities, such as sculptures and inscriptions, which belong to a particular place and ought, therefore, to be kept *in situ* or deposited in local museums. The removal of these it is proposed to enable the Local Government to prohibit by notification; and the clause also provides that, if the object is moveable, the owner may require the Government to purchase it outright, and that, if it is immoveable, the Government shall compensate the owner for any loss caused to him by the prohibition. Clause 20 deals with the compulsory purchase of such antiquities, if that is found to be necessary for their preservation and the owner is not unwilling, on personal or religious grounds, to part from them. In such cases it is proposed that the price to be paid should be assessed by the Collector, subject to a right of appeal to the Local Government; but it is for consideration whether the Land Acquisition Act of 1894 should be followed and a reference to the Courts allowed.

5. The third portion of the Bill deals with excavations, and gives power to make rules to prohibit or regulate such operations.

6. A general power to make rules is given by clause 22, and clause 23 is intended to protect acts done, or in good faith intended to be done, under the law which it is now proposed to enact.

The 19th October, 1903. DENZIL IBBETSON.

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 23rd October, 1903:

NO. 17 OF 1903.

A Bill to make further provision regarding the borrowing powers of certain local authorities.

WHEREAS it is expedient to make further provision regarding the borrowing powers of certain local authorities; It is hereby enacted as follows:

Short title and extent.

1. (*1*) This Act may be called the Local Authorities' Loan Act, 1903.

(*2*) It applies only to the local authorities specified in the schedule, and any other local authority to which the Governor General in Council may, by notification in the Gazette of India, extend its provisions.

Issue of short-term bills.

2. Notwithstanding anything in any other enactment for the time being in force, a local authority may, with the previous sanction of the Governor General in Council, borrow money by means of the issue of bills repayable within any period, not exceeding twelve months, for any purpose for which such local authority may lawfully borrow money under any law for the time being in force, and the bills so issued shall be subject to any restrictions as to amount imposed by law in the case of ordinary loans.

Power of borrowing to repay previous loan.

3. Notwithstanding anything in any other enactment for the time being in force, a local authority may borrow money in any manner authorized by law for the purpose of repaying money previously borrowed in accordance with law.

Regulation of conditions of borrowing money under Act.

4. The Governor General in Council may, by general or special order, regulate the conditions on which money may be borrowed under this Act.

THE SCHEDULE.

The Corporation of Calcutta.

The Commissioners for the Port of Calcutta.

The Municipal Corporation of the City of Bombay.

The Trustees of the Port of Bombay.

The Municipal Commissioners for the City of Madras.

The Trustees of the Harbour of Madras.

The Municipal Committee of Rangoon.

The Commissioners for the Port of Rangoon.

The Municipality of Karachi.

The Trustees of the Port of Karachi.

The Trustees for the Improvement of the City of Bombay.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide for the borrowing of money by certain local authorities, with the previous sanction of the Government of India, by means of the issue of short-term bills, and also to enable the same authorities to borrow money in any manner authorized by law, for the purpose of discharging loans previously contracted.

The 16th October, 1903.

E. FG. LAW.

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bills were introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on [illegible] October, 1923:—

No. 17 OF 1923.

A Bill to make further provision respecting the borrowing of money by certain local authorities.

WHEREAS it is expedient to make further provision regarding the borrowing powers of certain local authorities; It is hereby enacted as follows:—

1. (1) This Act may be called the Local Authorities' Loans Act, 1923.

(2) It applies only to the local authorities named in the Schedule, and any other local authority to which the Governor General in Council may by notification in the Gazette of India extend its provisions.

2. Notwithstanding anything in any other enactment for the time being in force, a local authority may, with the previous sanction of the Governor General in Council, raise money by means of the issue of bills repayable within any period not exceeding twelve months, for any purpose for which such local authority may lawfully borrow money under any law for the time being in force; and the bills so issued shall be subject to any restrictions as to amount imposed by law in the case of ordinary loans.

3. Notwithstanding anything in any other enactment for the time being in force a local authority may borrow money in any manner authorised by law for the purpose of repaying money previously borrowed in accordance with law.

4. The Governor General in Council may, by general or special order, make rules regulating the conditions on which money may be borrowed under this Act.

THE SCHEDULE.

The Corporation of Calcutta.

The Commissioners for the Port of Calcutta.

The Municipal Corporation of the City of Bombay.

The Trustees of the Port of Bombay.

The Municipal Commissioners for the City of Madras.

The Trustees of the Harbour of Madras.

The Municipal Committee of Rangoon.

The Commissioners for the Port of Rangoon.

The Municipality of Karachi.

The Trustees of the Port of Karachi.

The Trustees for the Improvement of the City of Bombay.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to provide for the borrowing of money by certain local authorities, with the previous sanction of the Government of India, by means of the issue of short-term bills, and also to enable the same authorities to borrow money in any manner authorised by law for the purpose of discharging loans previously contracted.

The [illegible] October, 1923. E. FG. LAW.

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 23rd October, 1903 :

No. 18 OF 1903.

A Bill to provide for the constitution and control of co-operative credit societies.

WHEREAS it is expedient to encourage thrift, self-help and co-operation among agriculturists, artisans and persons of limited means, and for that purpose to provide for the constitution and control of co-operative credit societies ; It is hereby enacted as follows :

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Co-operative Credit Societies Act, 1903.

(*2*) It extends to the whole of British India ; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "by-law" means a rule made by a society in the exercise of any power conferred by this Act, or by any rule made under this Act :

(*b*) "committee" means the committee of management or other directing body of a society :

(*c*) "ex-member" means a person who has withdrawn or been expelled from a society :

(*d*) "member" includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and any rules made under this Act :

(*e*) "officer" includes a chairman, secretary, treasurer, member of committee, or other person empowered to give directions in regard to the business of a society :

(*f*) "Registrar" means the person appointed to perform the duties of a Registrar of Co-operative Credit Societies under this Act :

(*g*) "rural society" means a society consisting of ten or more agriculturists residing in the same town or village or in the same group of contiguous villages, and for the purposes of this definition the Registrar shall have power to decide whether any person is or is not an agriculturist and to determine what villages shall be considered to form a group :

(*h*) "society" means a co-operative credit society registered under this Act : and

(*i*) "urban society" means a society consisting of ten or more artisans or persons of limited means residing in the same town or village, and for the purposes of this definition the Registrar shall have power to decide whether any person is or is not a person of small means.

Registration.

The Registrar.

3. The Local Government may appoint a person to be Registrar of Co-operative Credit Societies for the Province or any portion of it.

Registration and incorporation of societies.

4. (*1*) Any ten or more persons possessing the qualifications described in section 2, clause (*g*) or clause (*i*), may apply to the Registrar to be registered as a rural or an urban society, as the case may be, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the proposed society as the Registrar may require.

(*2*) If the Registrar is satisfied that the persons proposing to form a society have complied with the provisions of this Act and with the rules made thereunder, he may register the society accordingly, and the society shall thereupon become and be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, movable or immovable, to enter into contracts, to institute and defend civil suits

and to do all things necessary for the purposes of its constitution.

(3) Every society shall have a registered address to which all notices and communications may be sent.

(4) No charge shall be made for registration under this section.

Constitution and Management.

Members of society. 5 The members of a society shall be—

(a) persons joining in the application mentioned in section 4, sub-section (1), and registered as a society under sub-section (2) of the same section ;

(b) persons possessing the qualifications described in section 2, clause (g) or clause (i), as the case may be, and elected by the members for the time being :

Provided that a person so elected shall not be a member unless and until he has made a payment to the society in respect of his membership.

Liability of members and disposal of profits. 6. (1) In the case of a rural society, the liability of each member for the debts of the society shall be unlimited : in the case of an urban society, such liability may be unlimited or limited by shares as may be provided by the by-laws or by any rules made under this Act.

(2) Where such liability is unlimited, all profits shall belong to the society, and no dividend or other payment on account of profits shall be paid to any member of the society.

(3) Where such liability is limited by shares, not less than one-fourth of the profits in each year shall be carried to a fund (to be called the Reserve Fund), before any dividend or payment on account of profits is paid to the members or any of them.

Restriction on borrowing by rural societies. 7. A rural society shall not borrow money unless with the sanction of the Registrar, which shall not be given except with the approval of the Collector.

Restrictions on loans. 8. (1) An urban society may lend money to a rural society in the same district.

(2) Save as provided in sub-section (1), a society shall not lend money unless to a member of such society, and subject to any rules made under this Act.

(3) A rural society may lend money on the security of agricultural produce, being the property of the member to whom the loan is made :

Provided that in the case of any such loan the society shall have the right to sell such produce at any time, and to apply the proceeds of the sale in liquidation or part liquidation of such loan.

(4) Save as provided in sub-section (3), a rural society shall not lend money on the security of moveable property.

(5) A society shall not lend money on mortgage of immoveable property.

Shares and Interests of Members.

Limit on proportion of capital held by member. 9. A member shall not hold more than such portion of the capital of a society, subject to a maximum of one-tenth, as may be prescribed by any rules made under this Act:

Provided that no member of a rural society shall hold more than two hundred and fifty rupees, and no member of an urban society more than one thousand rupees.

Restrictions on transfer of share or interest. 10. (1) A member shall not transfer any share held by him or his interest in the capital of the society or any part thereof unless he has held such share or interest for one year at least.

(2) The share or interest of a member in the capital of a society shall not be transferred or pledged unless to the society or to a member of the society and subject to any conditions as to maximum holding prescribed by this Act or by the by-laws or by any rules made under this Act.

Shares, etc., not liable to attachment. 11. The share or interest of a member in the capital of a society shall not be liable to attachment under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and neither the Official Assignee nor a Receiver appointed under Chapter XX of the Code of Civil Procedure shall be entitled to or have any claim on such share or interest. XIV of 1882.

Transfer of interest on death of member. 12. On the death of a member, the society may pay to such person as may appear to the Committee to be entitled to receive the same a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws and all moneys due to him from the society, and the society shall incur no liability by reason of such payment.

Priority of Society's claim against a member.

Prior claim of society as against crops, etc. 13. Subject to any prior claim of the Government in respect of land-revenue or of a landlord in respect of rent, a society shall be entitled in priority to other creditors to enforce its claim—

(a) upon the crops of a member in respect of seed advanced or money lent for the purchase of seed for the purpose of raising such crops ;

(b) upon any cattle, agricultural or industrial implements or raw material for manufactures, purchased with money lent by the society, in respect of the unpaid portion of such loan.

Lien and set-off in respect of shares, etc. 14. A society shall have a lien upon the shares, dividends and deposits of a member in respect of any debt due from such member to the society, and may set-off any sum credited or payable to a member in or towards payment of any such debt.

Audit, Inspection and Inquiry.

Audit, inspection and inquiry. 15. (1) The Registrar shall audit the accounts of each society once in every year.

(2) No charge shall be made in respect of the audit directed by sub-section (1).

(*3*) The audit under sub-section (*1*) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the society.

(*4*) The Registrar, the Collector or any person authorised in this behalf by the Registrar or the Collector may at any time inspect the books, accounts and papers of a society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection shall require.

(*5*) The Registrar may of his own motion, and shall on the request of the Collector, or on the application of a majority of the Committee or of not less than one-tenth of the members, hold an inquiry into the working and financial condition of a society, and all officers and members of the society shall furnish such information in regard to the affairs of the society as the Registrar may require.

(*6*) Where an inquiry is held under sub-section (*5*), the Registrar may apportion the costs, or such part of the costs as he may think right, between the society, the members demanding an inquiry and the officers or former officers of the society.

Extracts from books to be *primâ facie* evidence.

16. A certified extract from the books of any society shall be *primâ facie* evidence of the facts therein set forth in any suit to recover money due to the society.

Dissolution of a Society.

Dissolution.

17. (*1*) If the Registrar, after holding an inquiry under section 15, sub-section (*5*), is of opinion that a society ought to be dissolved, he may make an order cancelling the registration of the society.

(*2*) An appeal shall lie to the Local Government from an order made under sub section (*1*). Where no appeal is presented within one month from the making of the order, the order shall take effect on the expiry of one month. Where an appeal is presented within one month, the order shall take effect when it is confirmed by the Local Government.

(*3*) Where an order made under sub-section (*1*) takes effect, the society shall cease to exist as a corporate body.

Cancellation of registration of society.

18. (*1*) Where the registration of a society is cancelled under section 17, the Local Government may appoint a competent person to be liquidator of the society.

(*2*) A liquidator appointed under sub-section (*1*) shall have power to institute and defend suits on behalf of the society by his name of office, and shall also have power—

(*a*) to sue for and recover any sums of money due to the society at the date of such cancellation;

(*b*) to determine what sums the members and ex-members of the society shall respectively contribute to the assets of the society;

(*c*) to investigate all claims against the society, and, subject to the provisions of this Act, to decide questions of priority arising between claimants;

(*d*) to determine by what persons and in what proportions the costs of the liquidation are to be borne;

(*e*) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society.

(*3*) Subject to any rules of procedure made under this Act, a liquidator appointed under this section may exercise the powers which by any law for the time being in force are conferred upon a District Judge, in so far as such powers are necessary for carrying out the purposes of this section.

(*4*) The rules may provide for an appeal to the Court of the District Judge from any order made or direction given by a liquidator under this section.

(5) Orders made and directions given by a liquidator under this section and orders made or directions given by the said Court in the matter of any such appeal may be enforced in the same manner as the decree of a Civil Court.

Exemptions from Taxation.

Power to exempt from income-tax, stamp-duty and registration-fees.

19. (*1*) The Governor General in Council, by notification published in the Gazette of India, may exempt from income-tax the profits of a society or class of societies and the dividends or other payments received by the members of a society on account of profits.

(*2*) The Governor General in Council, by notification published as aforesaid, may exempt written instruments executed by or on behalf of a society or by an officer or member and relating to the business of the society or any class of such instruments from the stamp-duty with which such instruments are respectively chargeable under any law for the time being in force.

(*3*) The Governor General in Council, by notification published as aforesaid, may exempt a society or any class of societies from the payment of any fee payable under the law of registration for the time being in force, and may by such notification provide for the withdrawal of such exemption in case of abuse.

Debts due to Government.

Recovery of sums due to Government.

20. (*1*) All sums due from a society or from an officer or member of a society as such to the Government, including any costs awarded to the Government under section 15, sub-section (*6*), may be recovered in the same manner as arrears of land-revenue.

(*2*) Sums due from a society to Government and recoverable under sub-section (*1*) may be recovered, firstly, from the property of the society; secondly, from the members proportionally to their several shares or interests in the capital of the society; and, thirdly, from the members subject to the limit (if any) of their liability.

Rules.

Rules.

21. (*1*) The Local Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the forms to be used in applying for the registration of a society and the procedure in the matter of such applications ;

(b) prescribe the conditions to be complied with by persons applying for registration and by members admitted after registration, and provide for the election and admission of members from time to time ;

(c) provide for the withdrawal and expulsion of members and for the payments to be made to members who withdraw or are expelled and for the liabilities of ex-members ;

(d) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred ;

(e) subject to the provisions of section 9, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member ;

(f) prescribe the payments to be made and the conditions to be complied with by members applying for loans ;

(g) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings ;

(h) provide for the appointment, suspension and removal of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers ;

(i) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the sanction to be required to such making, alteration or abrogation ;

(j) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts and the charges, if any, to be made for such audit ;

(k) provide for the formation and maintenance of a register of members, and, where the liability of the members is limited by shares, of a register of shares ;

(l) provide for the rate at which interest may be paid on deposits, for the formation and maintenance of reserve funds, and for the investment of any funds under the control of the society ;

(m) provide that, if the by-laws of the society so direct, any dispute touching the business of a society between members or ex-members of the society or persons claiming through a member or ex-member or between a member or ex-member or persons so claiming and the committee or any officer shall be referred to arbitration, and prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in such arbitrations ;

(n) prescribe the conditions to be complied with by a society applying for the financial assistance of Government ; and

(o) determine in what cases an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of such appeals.

Miscellaneous.

Indian Companies Act, 1882, not to apply.

22. The provisions of the Indian Companies Act, 1882, shall not apply to societies registered under this Act. VI of 1882.

STATEMENT OF OBJECTS AND REASONS.

THE object of this measure is to provide the requisite legal basis for the establishment in India of Agricultural Banks, or—to use a more appropriate expression—of Co-operative Credit Societies. Such a scheme for improving the credit of the masses has for some time past been engaging the attention of the Government, the advantages likely to follow the provision of some means of obtaining capital, especially in connection with agricultural operations, otherwise than at usurious rates of interest having, indeed, long been recognized in this country. Legislation is called for not only in order to lay down the fundamental conditions which must be observed, but also with a view to giving such societies a corporate existence without resort to the elaborate provisions of the Companies Act ; but it is thought that legislation should be confined within the narrowest possible limits. The Bill has, therefore, been drawn so as to deal only with those points which the Government consider to be essential, and its provisions have been expressed in simple and general terms, a wide rule-making power being reserved to Local Governments, so that what is felt to be of the nature of an experiment may be tried in each Province or part of a Province on such lines as seem to afford most promise of success. An explanation of the more important features of the draft will be found in the annexed notes on its clauses.

The 21st October, 1903. DENZIL IBBETSON.

Notes on Clauses.

Clause 3.—Much importance is attached to the appointment of a special officer in each Province, who should, as Registrar of Co-operative Societies, guide and control such societies, particularly in the early days of the movement. Gradually, no doubt, as experience is gained and the societies are able to stand alone, the fostering care of the Registrar will be less required, and eventually his duties will become for the most part purely official.

Clauses 5-8.—The main object is to encourage thrift and co-operation among persons of limited means, and it is not intended that the special facilities and concessions contemplated should be made available for the ordinary operations of capital. The Bill is conceived primarily in the interests of agriculturists, but it is recognized that societies may properly be started among other classes of small means in towns and large villages. While, therefore, it is proposed to allow urban societies to be promoted on a share basis with limited liability, for rural societies it has been decided to insist upon the principle of unlimited liability. The utilisation of combined credit for the benefit of individual agriculturists is the kind of co-operation which it is desired to encourage, and towards this end the measure is mainly directed. It seems essential that the main qualifications for admission to membership of a society, whether rural or urban, should be laid down by legislation, and it is thought that the most prominent qualification should be residence in the same neighbourhood, inasmuch as it is an essential principle that the lenders should have that accurate knowledge of the circumstances of the borrowers which can only thus be obtained. It is also important that members should be eligible for admission by election only so as to secure that mutual confidence upon which successful co-operation must depend.

Clause 8.—As it is desired to foster thrift and mutual co-operation, it is provided that loans shall be admissible to members only, save in the case of urban societies, when it is proposed to allow, subject to the sanction of the Registrar, advances to be made to rural societies in the same district. The question whether pawnbroking should be countenanced has been much discussed, and the conclusion embodied in clause 8 is that it should be prohibited except as regards advances by rural societies on the deposit of agricultural produce.

Clauses 9 and 10.—These clauses aim at strictly limiting the number and value of the shares held by a single individual, and rendering shares untransferable until they have been in the possession of the holder for a certain period. The object is to prevent the acquisition of a predominant interest in a society by speculators whose advantage it might be to wreck it or to use the facilities furnished by the measure to start banks for ends other than those which it is desired to promote.

Clause 11.—It is here provided that the interests of individual members in the funds of a society shall be exempt from liability to attachment by civil process. To deposits it has been decided that this exemption should not be extended.

Clause 12.—Facilities for the payment of what is due to a member on his death are here provided.

Clauses 13 and 14.—The proposal that a summary process for the recovery of loans should be secured in favour of societies has been discarded, and these clauses are confined to giving them a prior claim as against ordinary creditors on the crops grown, and cattle, etc., purchased with the aid of advances, and also a lien on shares, dividends and deposits.

Clause 15.—This provision will render official audit compulsory, and, it is believed, will give the outside public and the members confidence in the management. Even although a society may receive no financial assistance from the Government, yet it will obtain valuable privileges under the proposed Act, and it is but reasonable that it should at the same time be obliged to submit its accounts to some check, which must in this country take the form of an official audit.

Clauses 17 and 18.—These provisions as to the dissolution and liquidation of a society call for no special explanation.

Clause 19.—Power is here taken to grant by executive order certain exemptions in respect of income-tax, stamp-duties, and registration-fees. In provinces where there are no records-of-rights, the searching of registers kept under the Indian Registration Act, 1877 (III of 1877), is the only means of ascertaining the existence of encumbrances upon land; but the right to search free of charge is a privilege which might be used to obtain information required really for private purposes, and power has, therefore, been expressly taken to withdraw it in case of such abuse from any particular society.

Clause 20.—The Bill does not provide for the grant of financial assistance by the Government; but it may be necessary to afford such assistance, and the matter is left to be regulated by executive order. The power summarily to recover any advances made in this way, as also any other sums due to the Government, is reserved by clause 20.

Clause 21.—The object of the wide rule-making power here contemplated has already been adverted to.

Clause 22.—It is proposed, as has also been explained above, that duly registered Co-operative Credit Societies should not be subject to the provisions of the Indian Companies Act, 1882 (VI of 1882).

J. M. MACPHERSON,

Secretary to the Government of India.

4 *d*

Clauses 5-8.—The main object is to encourage thrift and co-operation among persons of limited means, and it is not intended that the special facilities and concessions contemplated should be made available for the ordinary operations of capital. The Bill is conceived primarily in the interests of agriculturists, but it is recognized that societies may properly be started among other classes of small means in towns and large villages. While, therefore, it is proposed to allow urban societies to be promoted on a share basis with limited liability, for rural societies it has been decided to insist upon the principle of unlimited liability. The utilisation of combined credit for the benefit of individual agriculturists is the kind of co-operation which it is desired to encourage, and towards this end the measure is mainly directed. It seems essential that the main qualifications for admission to membership of a society, whether rural or urban, should be laid down by legislation, and it is thought that the most prominent qualification should be residence in the same neighbourhood, inasmuch as it is an essential principle that the lenders should have that accurate knowledge of the circumstances of the borrowers which can only thus be obtained. It is also important that members should be eligible for admission by election only, so as to secure that mutual confidence upon which successful co-operation must depend.

Clause 8.—As it is desired to foster thrift and mutual co-operation, it is provided that loans shall be admissible to members only, save, in the case of urban societies, when it is proposed to allow, subject to the sanction of the Registrar, advances to be made to rural societies in the same district. The question whether lending on the security of immoveable property should be allowed has been much discussed, and the conclusion embodied in clause 8 is that it should be prohibited except as regards advances by rural societies on the deposit of agricultural produce.

Clauses 9 and 10.—These clauses aim at strictly limiting the number and value of the shares held by a single individual, and making shares non-transferable until they have been in the possession of the holder for a certain period. The object is to prevent the acquisition of a predominant interest in a society by speculators whose advantage it might be to wreck it or to use the facilities furnished by the measure to start banks for ends other than those which it is desired to promote.

Clause 11.—It is here provided that the interests of individual members in the funds of a society shall be exempt from liability to attachment by civil process. In Germany it has been decided that this exemption should not be extended.

Clause 12.—Facilities for the payment of what is due to a member on his death are here provided.

Clauses 13 and 14.—The proposal that a summary process for the recovery of loans should be secured in favour of societies has been discussed, and these clauses are confined to giving them a prior claim as against ordinary creditors on the crops, ploughs, cattle, etc., purchased with the aid of advances, and also a lien on shares, dividends and deposits.

Clause 15.—This provision will render official audit compulsory, and, it is believed, will give the outside public and the members confidence in the management. Even although a society may receive no financial assistance from the Government, yet it will obtain valuable privileges under the proposed Act, and it is but reasonable that it should at the same time be obliged to submit its accounts to some check, which must in this country take the form of an official audit.

Clauses 17 and 18.—These provisions as to the dissolution and liquidation of a society call for no special explanation.

Clause 19.—Power is here taken to grant by executive order certain exemptions in respect of income-tax, stamp-duties, and registration-fees. In provinces where there are no records-of-rights, the searching of registers kept under the Indian Registration Act, 1877 (III of 1877), is the only means of ascertaining the existence of incumbrances upon land; but the right to search free of charge is a privilege which might be used to obtain information required really for private purposes, and power has, therefore, been expressly taken to withdraw it in case of such abuse from any particular society.

Clause 20.—The Bill does not provide for the grant of financial assistance by the Government; but it may be necessary to afford such assistance, and the matter is left to be regulated by executive order. The power summarily to recover any advances made in this way, as also any other sums due to the Government, is reserved by clause 20.

Clause 21.—The object of the wide rule-making power here contemplated has already been alluded to.

Clause 22.—It is proposed, as has also been explained above, that duly registered Co-operative Credit Societies should not be subject to the provisions of the Indian Companies Act, 1882 (VI of 1882).

J. M. MACPHERSON,

Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, NOVEMBER 12, 1903.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 4th November, 1903, and is hereby promulgated for general information:

ACT NO. XV OF 1903.

THE INDIAN EXTRADITION ACT, 1903.

CONTENTS.

CHAPTER I.

PRELIMINARY.

CHAPTER II.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

The Indian Extradition Act, 1903.

(Chapter I.—Preliminary.—Sections 1-2. Chapter II—Surrender of Fugitive Criminals in case of Foreign States.—Section 3)

An Act to consolidate and amend the law relating to the Extradition and Rendition of Criminals.

WHEREAS it is expedient to provide for the more convenient administration in British India of the Extradition Acts, 1870 and 1873, and of the Fugitive Offenders Act, 1881; (33 & 34 Vict., c. 52; 36 & 37 Vict., c. 60; 44 & 45 Vict, c. 69.)

and whereas it is also expedient to amend the law relating to the extradition of criminals in cases to which the Extradition Acts, 1870 and 1873 do not apply;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Indian Extradition Act, 1903.

(2) It extends to the whole of British India (including British Baluchistan, the Santhal Parganas and the Pargana of Spiti); and

(3) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, may direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "European British subject" means a European British subject as defined by the Code of Criminal Procedure for the time being in force:

(b) "extradition offence" means any such offence as is described in the first schedule:

(c) "Foreign State" means a State to which, for the time being, the Extradition Acts, 1870 and 1873, apply: (33 & 34 Vict., c. 52; 36 & 37 Vict., c. 60.)

(d) "High Court" means the High Court as defined by the Code of Criminal Procedure for the time being in force:

(e) "offence" includes any act wheresoever committed which would, if committed in British India, constitute an offence: and

(f) "rules" include prescribed forms.

CHAPTER II.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

Requisition for surrender.

3. (1) Where a requisition is made to the Government of India or to any Local Government by the Government of any Foreign State for the surrender of a fugitive criminal of that State, who is in or who is suspected of being in British India, the Government of India or the Local Government, as the case may be, may, if it thinks fit, issue an order to any Magistrate who would have had jurisdiction to inquire into the crime if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

Summons or warrant for arrest.

(2) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be

The Indian Extradition Act, 1903.

(Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.—Sections 4-6.)

one in which a summons or warrant would ordinarily issue.

Inquiry by Magistrate.

(3) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

Committal.

(4) If the Magistrate is of opinion that a *primâ facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government of India or the Local Government, as the case may be.

Bail.

(5) If the Magistrate is of opinion that a *primâ facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail.

Magistrate's report.

(6) The Magistrate shall report the result of his inquiry to the Government of India, or the Local Government, as the case may be, and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Government.

Reference to High Court if Government thinks necessary.

(7) If the Government of India or the Local Government, as the case may be, is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to such High Court as may be named in the order, and the fugitive criminal shall not be surrendered until such question has been decided.

Warrant for surrender.

(8) If, upon receipt of such report and statement or upon the decision of any such question, the Government of India or the Local Government, as the case may be, is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

Lawfulness of custody and re-taking under warrant for surrender.

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Discharge of fugitive criminals committed to prison after two months.

(10) If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (4), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal, and upon proof that reasonable notice of the intention to make such application has been given to the Government of India or the Local Government, as the case may be, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

Power to Magistrate to issue warrant of arrest in certain cases.

4. (1) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section to the Local Government.

Person arrested not to be detained unless order received.

(3) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, sub-section (1).

Bail.

(4) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the crime of which he is accused or has been convicted.

Power of Government to refuse to issue order under section 3 when crime of political character.

5. (1) If the Government of India or any Local Government is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, it may, if it think fit, refuse to issue any order under section 3, sub-section (1).

Power of Government to discharge any person in custody at any time.

(2) The Government of India or the Local Government may also at any time stay any proceedings taken under this Chapter, and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

References to "Police Magistrate" and "Secretary of State" in section 3 of Extradition Act, 1870.

6. The expressions "the Police Magistrate" and "the Secretary of State" in section 3 of the Extradition Act, 1870, shall be read as referring respectively to the Magistrate directed to inquire into a case under section 3 of this Act, and to the Government of India or the Local Government, as the case may be.

33 & 34 Vict., c. 52.

The Indian Extradition Act, 1903.

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Sections 7-11.)

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

Issue of warrant by Political Agents in certain cases.

7 (*1*) Where an extradition offence has been committed or is supposed to have been committed by a person, not being a European British subject, in the territories of any State not being a Foreign State, and such person escapes into or is in British India and the Political Agent in or for such State issues a warrant, addressed to the District Magistrate of any district in which such person is believed to be, for his arrest and delivery at a place and to a person or authority indicated in the warrant, such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

Execution of such warrant.

(*2*) A warrant issued as mentioned in sub-section (*1*) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall, unless released in accordance with the provisions of this Act, be forwarded to the place and delivered to the person or authority indicated in the warrant.

Proclamation and attachment in case of persons absconding.

(*3*) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate under this section as if the warrant had been issued by himself.

Release on giving security.

8. (*1*) Where a Political Agent has directed by endorsement on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

Magistrate to retain bond.

(*2*) Where security is taken under this section, the Magistrate shall certify the fact to the Political Agent who issued the warrant, and shall retain the bond.

Re-arrest in case of default.

(*3*) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to any person authorized by the Political Agent to take him into custody.

Deposit in lieu of bond, and forfeiture of bonds.

(*4*) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.

Requisitions by States not being Foreign States.

9. Where a requisition is made to the Government of India or to any Local Government by or on behalf of any State not being a Foreign State, for the surrender of any person accused of having committed an offence in the territories of such State, such requisition shall (except in so far as relates to the taking of evidence to show that the offence is of a political character or is not an extradition crime) be dealt with in accordance with the procedure prescribed by section 3 for requisitions made by the Government of any Foreign State as if it were a requisition made by any such Government under that section:

Provided that, if there is a Political Agent in or for any such State, the requisition shall be made through such Political Agent.

Power to Magistrates to issue warrants of arrest in certain cases.

10. (*1*) If it appears to any Magistrate of the first class or any Magistrate empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in any State not being a Foreign State and that such person may lawfully be surrendered to such State, or that a warrant may be issued for his arrest under section 7 the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(*2*) The Magistrate shall forthwith report the issue of a warrant under this section, if the offence appears or is alleged to have been committed in the territories of a State for which there is a Political Agent, to such Political Agent and in other cases to the Local Government.

Limit of time of detention of person arrested.

(*3*) A person arrested on a warrant issued under this section shall not, without the special sanction of the Local Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by section 9, or a warrant for the arrest of such person under section 7.

Bail.

(*4*) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the offence with which he is charged.

Surrender of person accused of, or undergoing sentence for, offence in British India.

11. (*1*) A person accused of an offence committed in British India, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in British India, shall not be surrendered in compliance with a warrant issued by a Political Agent under section 7 or a requisition made by or on behalf of any State not being a Foreign State under section 9, except on the condition

The Indian Extradition Act, 1903.
(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Sections 12-18. Chapter IV.—Rendition of Fugitive Offenders in His Majesty's dominions.—Section 19.)

that such person be re-surrendered to the Government of India or the Local Government, as the case may be, on the termination of his trial for the offence for which his surrender has been asked :

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

Suspension of sentence on surrender.

(2) On the surrender of a person undergoing sentence under a conviction in British India, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

Application of Chapter to convicted persons.

12. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any State not being a Foreign State, has escaped into or is in British India before his sentence has expired.

Abetment and attempt.

13. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Lawfulness of custody and retaking under warrant issued under Chapter.

14. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Power of Government to stay proceedings and discharge persons in custody.

15. The Government of India or the Local Government may, by order stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.

Application of Chapter to offences committed before its commencement.

16. The provisions of this Chapter shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Act, and to an offence in respect of which a Court of British India has concurrent jurisdiction.

Receipt in evidence of exhibits, depositions and other documents.

17. (1) In any proceedings under this Chapter, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence.

Authentication of the same.

(2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside British India, or copies thereof, and certificates of, or judicial documents stating the fact of, conviction before any such Court, shall be deemed duly authenticated,—

(*a*) if the warrant purports to be signed by a Judge, Magistrate or officer of the State where the same was issued or acting in or for such State :

(*b*) if the depositions or statements or copies thereof purport to be certified, under the hand of a Judge, Magistrate or officer of the State where the same were taken, or acting in or for such State, to be the original depositions or statements or to be true copies thereof, as the case may require :

(*c*) if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or officer of the State where the conviction took place or acting in or for such State ;

(*d*) if the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

Definition of 'warrant'.

(3) For the purposes of this section, "warrant" includes any judicial document authorizing the arrest of any person accused or convicted of an offence.

Chapter not to derogate from treaties.

18. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies, and the provisions of this Act shall be modified accordingly.

CHAPTER IV.

RENDITION OF FUGITIVE OFFENDERS IN HIS MAJESTY'S DOMINIONS.

Application of Fugitive Offenders Act, 1881.

19. For the purpose of applying and carrying into effect in British India the provisions of the Fugitive Offenders Act, 1881, 44 & 45 Vict. c. 69. the following provisions are hereby made :—

(*a*) the powers conferred on "Governors" of British possessions may be exercised by any Local Government :

(*b*) the powers conferred on a "Superior Court" may be exercised by any Judge of a High Court :

(*c*) the powers conferred on a "Magistrate" may be exercised by any Magistrate of the first class or by any

The Indian Extradition Act, 1903.
(Chapter V.—Offences committed at Sea.—Section 20. Chapter VI.—Execution of Commissions issued by Criminal Courts outside British India.—Section 21. Chapter VII.—Supplemental.—Sections 22-24. The First Schedule.—Extradition Offences.)

Magistrate empowered by the Local Government in that behalf: and

(*d*) the offences committed in British India to which the Act applies, are piracy, treason and any offence punishable under the Indian Penal Code with rigorous imprisonment for a term of twelve months or more or with any greater punishment. LV of 1860.

CHAPTER V.

OFFENCES COMMITTED AT SEA.

Requisition for surrender in case of offence committed at sea.

20. Where the Government of any State outside India makes a requisition for the surrender of a person accused of an offence committed on board any vessel on the high seas which comes into any port of British India, the Local Government and any Magistrate having jurisdiction in such port and authorized by the Local Government in this behalf may exercise the powers conferred by this Act.

CHAPTER VI.

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE BRITISH INDIA.

Execution of commissions issued by Criminal Courts outside British India.

21. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in any country or place outside British India in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included a criminal proceeding:

Provided that this section shall not apply when the evidence is required for a Court or tribunal in any State outside India other than a British Court and the offence is of a political character.

CHAPTER VII.

SUPPLEMENTAL.

Power to make rules.

22. (*1*) The Governor General in Council may make rules to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the removal of prisoners accused or in custody under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them;

(*b*) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies;

(*c*) the pursuit and arrest in British India, by officers of the Government or other persons authorized in this behalf, of persons accused of offences committed elsewhere; and

(*d*) the procedure and practice to be observed in extradition proceedings.

(*3*) Rules made under this section shall be published in the Gazette of India and shall thereupon have effect as if enacted by this Act.

Detention of persons arrested under section 54, clause *seventhly*, Act V, 1898.

23. Notwithstanding anything in the Code of Criminal Procedure, 1898, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause *seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 10. V of 1898.

Repeals.

24. The Acts mentioned in the second schedule are repealed to the extent specified in the fourth column thereof.

THE FIRST SCHEDULE.

EXTRADITION OFFENCES.

[*See section 2, clause (b), and Chapter III (Surrender of Fugitive Criminals in case of States other than Foreign States).*]

[The sections referred to are the sections of the Indian Penal Code.]

Frauds upon creditors (section 206).

Resistance to arrest (section 224).

Offences relating to coin and stamps (sections 230 to 263A).

Culpable homicide (sections 299 to 304).

Attempt to murder (section 307).

Thagi (sections 310, 311).

Causing miscarriage, and abandonment of child (sections 312 to 317).

Causing hurt (sections 323 to 333).

Wrongful confinement (sections 347, 348).

Kidnapping and slavery (sections 360 to 373).

Rape and unnatural offences (sections 375 to 377).

Theft, extortion, robbery, etc. (sections 378 to 414).

Cheating (sections 415 to 420).

Fraudulent deeds, etc. (sections 421 to 424).

Mischief (sections 425 to 440).

Lurking house-trespass (sections [illegible]

The Indian Extradition Act, 1903.

(The Second Schedule.—Enactments repealed.)

Forgery, using forged documents, etc. (sections 463 to 477A).

Desertion from any body of Imperial Service Troops.

Piracy by law of nations.

Sinking or destroying a vessel at sea or attempting or conspiring to do so.

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Any offence against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Governor General in Council by notification in the Gazette of India either generally for all States or specially for any one or more States.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 24.)

Year.	No.	Short title.	Extent of repeal.
1879	XXI	The Foreign Jurisdiction and Extradition Act, 1879.	So much as is unrepealed.
1895	IX	The Extradition (India) Act, 1895.	The whole Act.
1896	V	The Foreign Jurisdiction and Extradition Act (1879) Amendment Act, 1896.	The whole Act.

J. M. MACPHERSON,

Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, NOVEMBER 12, 1903.

PART IV.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th November, 1903:

NO. 19 OF 1903.

THE UNIVERSITIES BILL.

CONTENTS.

SECTIONS.

The Indian Universities Bill.

(Sections 1-2. The University.—Sections 3-4. Fellows.—Sections 5-7.)

A Bill to amend the law relating to the Universities of British India.

WHEREAS by Acts II, XXII and XXVII of 1857, Act XIX of 1882 and Act XVIII of 1887 Universities were established and incorporated at Calcutta, Bombay, Madras, Lahore and Allahabad;

And whereas by Act XLVII of 1860 the Universities of Calcutta, Madras and Bombay were empowered to confer such degrees as should be appointed in the manner provided by the Act;

And whereas by Act I of 1884 the Universities of Calcutta, Madras and Bombay were further empowered to confer the Honorary Degree of Doctor in the Faculty of Law;

And whereas it is expedient to amend the law relating to the Universities of British India;

It is hereby enacted as follows:

Short title and commencement.

1. (*1*) This Act may be called the Indian Universities Act, 1904; and

(*2*) It shall come into force on such date as the Government may fix in this behalf by notification in the Gazette of India or the local official Gazette, as the case may be.

Interpretation.

2. (*1*) This Act shall be deemed to be part of each of the Acts by which the said five Universities were respectively established and incorporated.

(*2*) In this Act, unless there is anything repugnant in the subject or context—

(*a*) the expression "the Government" means in relation to the University of Calcutta the Governor General in Council, and in relation to the other Universities the Local Government; and

(*b*) the expressions "the University" and "the Act of Incorporation" and any expression denoting any University authority or officer or any statute, regulation, rule or by-law of the University shall be construed with reference to each of the said Universities respectively.

The University.

Incorporation and powers of the University.

3. The University shall be and shall be deemed to have been incorporated for the purpose (among others) of making provision for the instruction of students, with power, subject to the approval of the Government,—

(*a*) to appoint Professors and Lecturers,

(*b*) to hold and manage educational endowments,

(*c*) to make regulations relating to the residence and conduct of students, and

(*d*) to do all acts, consistent with the Act of Incorporation and this Act, which tend to the promotion of study and research.

Constitution and powers of the Senate.

4. (*1*) The Body Corporate of the University shall consist of—

(*a*) the Chancellor;

(*b*) in the case of the University of Calcutta, the Rector;

(*c*) the Vice-Chancellor;

(*d*) the *ex officio* Fellows; and

(*e*) the Ordinary Fellows, who shall be—

(*i*) elected by registered Graduates or by the Senate,

(*ii*) elected by the Faculties, and

(*iii*) nominated by the Chancellor,

and shall, save as herein otherwise provided, hold office for five years.

(*2*) The Body Corporate shall be the Senate of the University, and all powers which are by the Act of Incorporation or by this Act conferred upon the Senate, or upon the Chancellor, Vice-Chancellor and Fellows in their corporate capacity, or, in the case of the University of Calcutta, upon the Chancellor, Rector, Vice-Chancellor and Fellows in their corporate capacity, shall be vested in, and exercised by, the Senate constituted under this Act, exclusively.

Fellows.

Ex officio Fellows.

5. (*1*) The persons for the time being performing the duties of the offices mentioned in the first schedule to this Act shall be *ex officio* Fellows of the University.

(*2*) The Government may, by notification published in the Gazette of India or in the local official Gazette, as the case may be, make additions to, or alterations in, the list of offices contained in the said schedule:

Provided that the number of *ex officio* Fellows shall not exceed ten.

Ordinary Fellows.

6. (*1*) In the case of the Universities of Calcutta, Bombay and Madras, the number of Ordinary Fellows shall not exceed one hundred; and of such number—

(*a*) ten shall be elected by registered Graduates;

(*b*) any number not exceeding ten may be elected by the Faculties; and

(*c*) the remainder shall be Fellows nominated by the Chancellor.

(*2*) In the case of the Universities of the Punjab and Allahabad, the number of Ordinary Fellows shall not exceed seventy-five; and of such number—

(*a*) eight shall be elected by registered Graduates or by the Senate;

(*b*) any number not exceeding seven may be elected by the Faculties; and

(*c*) the remainder shall be Fellows nominated by the Chancellor.

(*3*) The election by registered Graduates, by the Senate or by the Faculties of any Ordinary Fellow shall be subject to the approval of the Chancellor.

Ordinary Fellows elected by registered Graduates.

7. (*1*) Once in every year, on such date as the Chancellor may appoint in this behalf, there shall be an election to fill any vacancy among the Ordinary Fellows elected by registered Graduates.

(*2*) The Syndicate shall maintain a register on which any Graduate who—

(*a*) has taken the highest degree in any Faculty, or

The Indian Universities Bill.

(Fellows.—Sections 8-11. Transitory Provision.—Section 12. Honorary Fellows.—Section 13.)

(*b*) has taken two degrees in the University, one of which is a degree in the Faculty of Arts, or,

(*c*) in the case of a Graduate of the University of Calcutta, has taken the degree of Bachelor of Arts in or before the year 1867,

shall, subject to the payment of an initial fee of two rupees, be entitled to have his name entered upon application made within the period of one year from the commencement of this Act or from the date on which he becomes so entitled.

(*3*) The name of any Graduate entered on the register shall, subject to the payment of an annual fee of two rupees, be retained thereon, and, in case of default, shall be removed therefrom, but shall, at any time, be re-entered upon payment of all arrears.

(*4*) Any Graduate whose name is entered on the said register shall be qualified to vote or to be elected at an election held under sub-section (*1*).

Ordinary Fellows elected by Senates.

8. (*1*) The provisions of section **7** shall not apply to the University of the Punjab or to the University of Allahabad until the Chancellor, with the previous sanction of the Governor General in Council and by notification in the local official Gazette, so directs; and until such time the Ordinary Fellows of the said Universities who would be elected by registered Graduates if the said provisions were in force, shall be elected by the Senate.

Ordinary Fellows elected by Faculties.

9. (*1*) The Chancellor may, at any time, authorize the Members of or Graduates in any Faculty to elect to the maximum numbers specified in section 6, sub-sections (*1*) and (*2*), clause (*b*), any one of the Members thereof or Graduates therein to be an Ordinary Fellow.

(*2*) In authorizing an election under sub-section (*1*), the Chancellor may prescribe the conditions subject to which Members of or Graduates in the Faculty shall be qualified to elect or be elected.

Ordinary Fellows nominated by Chancellor.

10. Subject to the provisions of section 6, the Chancellor may nominate any number of fit and proper persons to be Ordinary Fellows.

Vacating of office.

11. (*1*) Any Ordinary Fellow may, by letter addressed to the Chancellor, resign his office.

(*2*) Where any Ordinary Fellow has not attended a meeting of the Senate, other than a Convocation, during the period of one year, the Chancellor may declare his office to be vacated.

Transitory Provision.

Transitory provision regarding Ordinary Fellows to be elected or nominated within one year after commencement of Act.

12. In their application to Ordinary Fellows to be elected or nominated within the period of one year after the commencement of this Act, the foregoing provisions shall be read as subject to the following restrictions and modifications, namely:

(*a*) the Chancellor shall, as soon as may be after the commencement of this Act, make an order directing that the Ordinary Fellows who under the said provisions are to be elected by registered Graduates shall be—

(*i*) elected or chosen by drawing of names or otherwise by the elected Fellows holding office at the commencement of this Act, or

(*ii*) elected by the Members of or Graduates in various Faculties in any specified proportions, or

(*iii*) elected by the holders of any specified degrees, or

(*iv*) elected by a combination of all or any of the foregoing constituent bodies;

(*b*) every Ordinary Fellow elected, chosen or nominated within the said period of one year after the commencement of this Act, shall, unless he otherwise ceases to be a Fellow, hold office for not less than three years;

(*c*) at or about the end of the third, fourth, fifth and sixth years from the commencement of this Act, the names of as nearly as may be one-fifth—

(*i*) of the Ordinary Fellows elected or chosen under clause (*a*), and

(*ii*) of the remaining Ordinary Fellows referred to in clause (*b*),

respectively, shall be drawn by lot, and those whose names are so drawn shall cease to be Fellows from the day on which the result of the drawing is declared;

(*d*) any Ordinary Fellow whose name has not been drawn under clause (*c*), and who has not otherwise ceased to be a Fellow, shall cease to be a Fellow at the end of the seventh year from the commencement of this Act.

Honorary Fellows.

Honorary Fellows.

13. (*1*) Every Fellow holding office at the commencement of this Act and not elected, chosen or nominated to be an Ordinary Fellow under this Act shall cease to be a Fellow and shall, subject to the provisions of sub-section (*3*), be an Honorary Fellow for life.

(*2*) The Chancellor may nominate any person to be an Honorary Fellow for life either by reason of his attainments in any branch of learning, or in connection with services rendered to the cause of education.

(*3*) Any Honorary Fellow elected or nominated to be an Ordinary Fellow under this Act shall cease to be an Honorary Fellow.

(*4*) Honorary Fellows shall in any Convocation for conferring degrees take precedence next after the Vice-Chancellor and before the Ordinary Fellows.

(*5*) Notwithstanding anything contained in this section, any Fellow who at the commencement of this Act is entitled as such to vote for the election of any person to be a member of any Council for the purpose of making laws and regulations or of any local authority, shall continue to be so entitled as if this Act had not been passed.

The Indian Universities Bill.

(Faculties and Syndicate.—Sections 14-15. Degrees.—Sections 16-18. Affiliated Colleges.—Sections 19-21.)

Faculties and Syndicate.

Faculties.

14. Nothing contained in the Act of Incorporation shall be deemed to prohibit the constitution of a new Faculty or the abolition or reconstitution of any existing Faculty.

Syndicate.

15. (*1*) The executive government of the university shall be vested in the Syndicate, which shall consist of—

(*a*) the Vice-Chancellor as Chairman ;

(*b*) the Director of Public Instruction for the time being ; and

(*c*) not less than nine or more than fifteen *ex officio* or Ordinary Fellows elected by the members of the Senate representing the various Faculties in such proportion as may be determined by regulation, to hold office for a period of two years unless, before the expiration of such period, they cease to be Fellows.

(*2*) Where a Faculty is represented in the Syndicate by an even number of Fellows, not less than one-half of the number shall be Heads of or Professors in Colleges affiliated to the University.

(*3*) Where a Faculty is represented in the Syndicate by an odd number of Fellows, a number, which shall not fall short by more than one of a majority, shall be Heads of or Professors in such Colleges.

(*4*) The Syndicate may elect one of their number to be Vice-Chairman during his term of office as a member of the Syndicate ; and in the absence of the Chairman and Vice-Chairman, if any, the senior Fellow present, being a member of the Syndicate, shall preside.

Degrees.

Degrees, diplomas, licenses, titles and marks of honour.

16. The Senate may confer such degrees, and grant such diplomas, licenses, titles and marks of honour in respect of degrees and examinations as may be prescribed by regulation.

Honorary degrees.

17. Where the Vice Chancellor and not less than two-thirds of the other members of the Syndicate recommend that an honorary degree be conferred on any person and their recommendation is supported by a majority of the Fellows present at a meeting of the Senate and is confirmed by the Chancellor, the Senate may confer on such person the honorary degree so recommended without requiring him to undergo any examination.

Cancellation of degrees and the like.

18. Where evidence is laid before the Syndicate showing that any person on whom a degree, diploma, license, title or mark of honour conferred or granted by the Senate has been convicted of what is, in their opinion, a serious offence, the Syndicate may propose to the Senate that the degree, diploma, license, title or mark of honour be cancelled, and, if the Senate shall accept the proposal, the degree shall be cancelled accordingly.

Affiliated Colleges.

Certificate required of candidates for examination.

19. Save by special order of the Senate, no person shall be admitted as a candidate at any University Examination, other than the Entrance or Matriculation Examination, unless he produces a certificate from a [College] affiliated to the University, to the effect that he has completed the course of instruction prescribed by regulation.

Existing Colleges.

20. Any College affiliated to the University before the passing of this Act may continue to exercise the rights conferred upon it by such affiliation, save in so far as such rights may be withdrawn or restricted in the exercise of any power conferred by the Act of Incorporation or by this Act.

Affiliation.

21. (*1*) A College applying for affiliation to the University shall send a letter of application to the Registrar, and shall satisfy the Syndicate—

(*a*) that the College is to be under the management of a properly constituted governing body ;

(*b*) that the qualifications of the teaching staff and the terms on which they are engaged are such as to make due provision for the courses of instruction to be undertaken by the College ;

(*c*) that the buildings in which the College is to be located are suitable, and that due provision will be made for the residence, supervision and physical welfare of students ;

(*d*) that due provision will, so far as circumstances may permit, be made for the residence of the Head of the college and members of the teaching staff in or near the College ;

(*e*) that the financial resources of the College are such as to make due provision for its permanent maintenance ;

(*f*) that the affiliation of the College, having regard to the provision made for students by other Colleges in the same neighbourhood, will not be injurious to the interests of education or discipline ; and

(*g*) that the fees to be paid by the students have not been so fixed as to involve such competition with any existing College as may be considered by the Syndicate to be unfair and injurious to the interests of education.

(*2*) On receipt of a letter of application under sub-section (*1*), the Syndicate shall—

(*a*) cause the College to be inspected by members of the Syndicate or by any other competent person authorized by the Syndicate in this behalf ;

(*b*) make such further inquiry as may appear to them to be necessary ; and

(*c*) report to the Senate on the question whether the application should be granted or refused, embodying in such report the results of the inspection and inquiry (if any) under clauses (*a*) and (*b*).

The Indian Universities Bill.

(Affiliated Colleges.—Sections 22-24. Regulations.—Sections 25-26.)

(3) The Syndicate shall submit the application and all proceedings relating thereto and the opinion recorded by the Senate thereon to the Government, who, after such further inquiry as may appear to them to be necessary, shall grant or ref) the application or any part thereof.

(4) Where the application or any part thereof is granted, the order of the Government shall specify the courses of instruction in respect of which the College is affiliated; and, where the application or any part thereof is refused, the grounds of such refusal shall be stated.

(5) An application under sub-section (1) may be withdrawn at any time before an order is made under sub-section (3).

Extension of affiliation.

22. Where a College desires to add to the courses of instruction in respect of which it is affiliated, the procedure prescribed by section 21, sub-sections (2) and (3) shall, so far as may be, be followed.

Inspection and reports.

23. (1) Every College affiliated to the University shall furnish such reports, returns and other information as the Syndicate may require.

(2) The Syndicate may cause any such College to be inspected by members of the Syndicate or by any other competent person authorized by the Syndicate in this behalf.

(3) The Syndicate may call upon any College so inspected to take, within a specified period, such action as may appear to them to be necessary in respect of any of the matters referred to in section 21, sub section (1).

Disaffiliation.

24. (1) Where notice is given in the Syndicate of a proposal to disaffiliate a College, in whole or in part, the Registrar shall forthwith send a copy of the proposal and a statement of the grounds on which it is made to the Head of the College, together with an intimation that any representation in writing submitted on behalf of the College will be considered by the Syndicate within a period specified in such intimation.

(2) On receipt of the representation or on expiration of the period referred to in sub-section (1), the Syndicate, after considering the proposal, statement and representation and after such inspection by members of the Syndicate or by any other competent person authorized by the Syndicate in this behalf, and such further inquiry as may appear to them to be necessary, shall make a report to the Senate.

(3) The Syndicate shall submit the proposal and all proceedings relating thereto and the opinion recorded by the Senate thereon to the Government, who, after such further inquiry as may appear to them to be necessary, shall make such order as the circumstances may, in their opinion, require.

(4) Where by an order made under sub-section (3) the rights conferred by affiliation are withdrawn, in whole or in part, the grounds for such withdrawal shall be stated in the order.

Regulations.

Regulations.

25. (1) The Senate, with the sanction of the Government, may, by regulations consistent with the Act of Incorporation as amended by this Act and with this Act, provide for all matters relating to the University.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the procedure to be followed in holding any election under section 7, sub-section (1);

(b) the constitution, reconstitution or abolition of Faculties, the proportion in which the members, other than the *ex officio* members, of the Syndicate shall be elected by the various Faculties, and the mode in which such election shall be conducted;

(c) the procedure at meetings of the Senate, Syndicate and Faculties;

(d) the constitution and procedure of Boards of Studies;

(e) the appointment and duties of the Registrar and of officers and servants of the University, and of Professors and Lecturers appointed by the University;

(f) the form of the certificate to be produced by a candidate for examination under section 19 and the terms on which any such certificate may be granted;

(g) the appointment of Examiners, and the duties and powers of Examiners in relation to the examinations of the University;

(h) the reports, returns and other information to be furnished by Colleges;

(i) the courses of study to be followed and the conditions to be complied with by candidates for degrees, diplomas, licenses, titles, marks of honour, scholarships and prizes conferred or granted by the University;

(j) the registers of Graduates and students to be kept by the University or by colleges affiliated to the University, and the fee, if any, to be paid for the entry or retention of a name on any such register;

(k) the rules to be observed and enforced by colleges affiliated to the University in respect of the transfer of students;

(l) the fees to be paid in respect of the courses of instruction given by Professors or Lecturers appointed by the University;

(m) the residence and conduct of students;

(n) the conditions to be complied with by schools desiring recognition for the purpose of sending up pupils as candidates for matriculation;

(o) the conditions to be complied with by candidates, not being students of any college affiliated to the University, for matriculation, degrees, diplomas, licenses, titles, marks of honour, scholarships and prizes conferred or granted by the University; and

(p) the alteration or cancellation of any rule, regulation, statute or by-law of the University in force at the commencement of this Act.

New body of regulations.

26. (1) As soon as may be after the first election and nomination of Ordinary Fellows under this Act, the Senate shall cause a revised body of regulations to be prepared.

The Indian Universities Bill.

(Miscellaneous.—Sections 27-29. The First Schedule.—Ex-officio Fellows of the University. The Second Schedule.—Enactments repealed.)

(2) The regulations so prepared shall be submitted in draft to the Government, who, after consulting (if necessary) such persons, not more than three in number, as the Senate may depute in this behalf, may sanction the regulations with such additions and alterations as may appear to them to be necessary.

(3) Where a draft body of regulations is not submitted by the Senate within one year after the commencement of this Act, the Government may make regulations which shall have the same force as if they had been prepared under sub-section (1) and sanctioned under sub-section (2).

Miscellaneous.

Territorial exercise of powers.

27. The Governor General in Council may, by general or special order, define the territorial limits within which, and specify the colleges in respect of which, any powers conferred by or under the Act of Incorporation or this Act shall be exercised.

Rector.

28. (1) The Lieutenant-Governor of Bengal for the time being shall be the Rector of the University of Calcutta and shall have precedence in any Convocation of the said University next after the Chancellor and before the Vice-Chancellor

(2) The Chancellor may delegate any power conferred upon him by the Act of Incorporation or this Act to the Rector.

Repeals.

29. The Acts mentioned in the second schedule are hereby repealed to the extent specified in the second column thereof.

THE FIRST SCHEDULE.

(Section 5.)

EX OFFICIO FELLOWS OF THE UNIVERSITY.

The University of Calcutta.

The Chief Justice of the High Court of Judicature at Fort William in Bengal.

The Lord Bishop of Calcutta.

The Civil Ordinary Members of the Council of the Governor General.

The Director of Public Instruction, Bengal.

The University of Bombay.

The Chief Justice of the High Court of Judicature at Bombay.

The Bishop of Bombay.

The Ordinary Members of the Council of the Governor of Bombay.

The Director of Public Instruction, Bombay.

The University of Madras.

The Chief Justice of the High Court of Judicature at Madras.

The Bishop of Madras.

The Ordinary Members of the Council of the Governor of Madras

The Director of Public Instruction, Madras.

The University of the Punjab.

The Chief Judge of the Chief Court of the Punjab.

The Bishop of Lahore.

The Director of Public Instruction, Punjab.

The Representatives of such Chiefs, if any, of territories not comprised in British India as the Local Government may, by notification in the local official Gazette, specify in this behalf.

The University of Allahabad.

The Chief Justice of the High Court of Judicature for the North-Western Provinces.

The Bishop of Lucknow.

The Director of Public Instruction, United Provinces of Agra and Oudh.

THE SECOND SCHEDULE.

(Section 29.)

ENACTMENTS REPEALED.

Act.	Extent of repeal.
II of 1857 ...	In section 6 the words "The Lieutenant-Governors of Bengal and the North-Western Provinces."
	Section 8, except the first sentence.
	Sections 10, 11, 12, 13 and 14.
XXII of 1857 ...	Section 8, except the first sentence, and sections 10, 11, 12, 13 and 14.
XXVII of 1857 .	Section 8, except the first sentence, and sections 10, 11, 12, 13 and 14.
XLVII of 1860...	The whole Act.
XIX of 1882 ...	Sections 12, 13, 14, 15, 16 and 18.
	In section 20 the words "under sections fourteen, fifteen and sixteen and all statutes, rules and regulations made under section eighteen."
I of 1884 ...	The whole Act.
XVIII of 1887 ...	Sections 12, 13, 14, 15 and 17.

STATEMENT OF OBJECTS AND REASONS.

THE Report of the Indian Universities Commission, which has been published and submitted for the opinion, not only of Local Governments and officials, but also of representative bodies and the public generally, points out the defects of the present system of higher education and outlines a comprehensive scheme of administrative and legislative reform. The criticisms evolved by its publication have been carefully and anxiously considered, and the present Bill aims at conferring the legal authority necessary to give effect to the principles and the policy which the Government of India desire to see adopted in future. The experience of the last fifty years in India has proved that a system which provides

merely for examining students in those subjects to which their aptitudes direct them, and does not at the same time compel them to study those subjects systematically under efficient instruction, tends inevitably to lower the standard of College education.

2. In dealing with the demand for teaching Universities, the Commissioners suggested the formation of central schools of advanced study, with provision for the residence of students. The Bill does not attempt to formulate any definite scheme in this connection, but clause 3 will confer upon all the Universities the requisite legal authority to make regulations relating to the promotion of advanced study and to the residence and conduct of students generally.

3. Following in the main the opinions of Local Governments, the Bill proposes to fix the number of Fellows, other than *ex officio* Fellows, at 100 in the case of the older Universities and at 75 in the case of the Punjab and Allahabad. As regards *ex officio* Fellows, the present numbers, which are shown in the margin, involve the double anomaly, first, that the Universities of the Punjab and Allahabad contain a disproportionately large number of such Fellows in comparison with the older Universities, and, secondly, that in those Universities the reformed Senates will be liable to be swamped by the *ex officio* Fellows, the number of whom can, under the existing Acts, be indefinitely increased at the discretion of the Local Government. At a time when it is proposed to reduce the Senates, it seems inexpedient to retain a power of making *ex officio* appointments of which it might be said that it would admit of being used to deprive the Senate of its representative character. Clause 5, therefore, proposes to limit the number of *ex officio* Fellows to ten.

Calcutta ...	... 9
Bombay ...	... 9
Madras ...	... 7
Allahabad ...	... 17
Punjab ...	... 14

4. All ordinary Fellows should, it is thought, hold office for five years, and should be eligible for re-appointment on the expiration of that period. In order to bring this state of things into operation with the minimum of confusion and inconvenience, it is proposed to appoint the new members of the Senate in the first instance for three years, after which for the next five years one-fifth of the number will retire each year, the individuals to retire being selected by ballot. Thus no Fellow will serve for less than three years; and at the end of seven years the normal constitution of the Senate, with its annual renewal of one-fifth each year will be fully established. This method further possesses the great advantage that it will leave the *personnel* of the reformed Senates unchanged, except by deaths and resignations, for the first three years of their existence, during which they will be engaged in carrying out the various reforms now contemplated. The necessary legal machinery is provided by clause 12 of the Bill.

5. The privilege of electing Fellows was conceded on a limited scale to the Graduates of the Calcutta University in 1891. This was admittedly an experiment; and that phrase was applied to it by the then Chancellor both in official letters and in public speech. No pledge of continuance was given, and the exercise of the privilege which, of course, possessed no statutory basis, was subject to the approval of the Governor General in Council, to whom the names of the Fellows elected are submitted for final sanction. The same privilege was extended somewhat later under similar conditions to the Universities of Madras and Bombay. In the case of each of the Universities of Allahabad and the Punjab the Act of Incorporation provides for the election of Fellows by the Senate, subject to the approval of the Chancellor. The Commissioners propose that the privilege conferred upon the older Universities should be confirmed by legislation, and that power should further be taken to introduce election by Graduates at Allahabad and Lahore. These proposals have been carefully considered, and the conclusions at which the Government of India have arrived are embodied in clause 6 of the Bill.

6. Where the Graduates are to elect, the composition of the electorate requires careful consideration, and by clause 7 of the Bill it is proposed to restrict the right of voting to the following three classes:—

(*a*) Graduates who have obtained the highest existing degree in any Faculty;

(*b*) Graduates who have obtained two degrees, one of which must be in the Faculty of Arts;

(*c*) in the case of the Calcutta University, Graduates who obtained the degree of Bachelor of Arts in or before the year 1867, when the degree of Master was first conferred.

The qualifications of candidates for election should, it is thought, be the same as those laid down for electors. Clause 7 of the Bill further provides that a register of Graduates shall be kept up in each University, that an annual fee of Rs. 2 shall be paid by those whose names and addresses are entered in it, and that persons whose names are not on the register shall not be allowed to vote. The method of voting will be determined by regulations made under clause 25. Clause 13 proposes that existing Fellows who are not appointed or elected to be members of the newly constituted Senates, shall be Honorary Fellows for life, shall take precedence in Convocations next to the Vice-Chancellor, and shall retain any rights that they may now possess of participating in the election of a member of any Legislative Council or municipal body, but they will not be members of the Senate or otherwise take any active part

INDEX

TO

Punjab Government Gazette

FOR HALF YEAR ENDING

31ST DECEMBER 1903.

PART V.

Civil Department.

Punjab Government Press, Lahore—3-3-04—726.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, FEBRUARY 12, 1903.

PART V.

Acts of the Lieutenant-Governor of the Punjab in Council which have received the assent of His Excellency the Governor-General in Council.

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[First publication.]

THE following Act of the Lieutenant-Governor of the Punjab in Council received the assent of His Honour the Lieutenant-Governor on the 23rd December 1902, and that of His Excellency the Viceroy and Governor-General in Council on the 26th January 1903, and is hereby promulgated for general information :—

PUNJAB ACT No. I OF 1903.

(Assent of the Governor-General first published in the Gazette of 12th February 1903.)

An Act to provide for the periodical enumeration and registration of animals in the Punjab fit, or ordinarily used, for the purposes of military transport, and for the compulsory acquisition of such animals in time of war, and for impressment of the same for hire for purposes of military transport at any time.

WHEREAS it is expedient to provide for the periodical enumeration and registration of animals in the Punjab fit, or ordinarily used, for the purposes of military transport, and for the compulsory acquisition of such animals in time of war, and for impressment of the same for hire for such purposes at any time; It is hereby enacted as follows :—

Preliminary.

Short title, local extent and commencement.

1. *(1)* This Act may be called the Punjab Military Transport Animals Act, 1903.

(2) It extends to the territories for the time being under the administration of the Lieutenant-Governor of the Punjab; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

"animal" means any animal that is fit, or ordinarily used, for the purposes of transport, but does not include any bullock that is not trained to carry loads or draw carts.

"Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special Judicial-officer within any specified local limits to perform the functions of the Court under this Act.

Appointment of Officers.

Appointment of Transport Registration Officers.

3. *(1)* The Local Government may appoint any person to be a Transport Registration Officer for the purposes of this Act within any specified local area.

(2) All the powers conferred on a Transport Registration Officer by this Act shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

Proof of appointment of Transport Registration Officers and their status as public servants.

4. (1) A declaration in writing signed by any person authorised by the Local Government in this behalf that any person has been duly appointed a Transport Registration Officer for any local area shall be conclusive proof of such appointment.

India Act XLV of 1860.

(2) All Transport Registration Officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Power of Collector to call upon certain persons to give assistance.

5. (1) The Collector, or such officer as the Local Government may appoint in this behalf for any local area, may, by written order which shall have effect throughout the limits of his district or of such local area, as the case may be, call upon—

(a) all owners and occupiers of land and assignees of land-revenue and their agents ;

(b) all local and village officers, including zaildars, inamdars, headmen, watchmen, kanungos and patwaris;

(c) members of District Boards and Municipal Committees,

to give such assistance as the Transport Registration Officer needs towards the making of an enumeration of animals which are, at the time of the making of such enumeration, on the lands of such owners, occupiers, and assignees, or within the limits of such villages, districts, municipalities or other areas for or in which such local or village officers or such members are appointed or hold office as the case may be.

(2) Such order shall specify the nature of the assistance required, and such owners, occupiers, assignees and their agents and such local and village officers and such members shall be bound to obey it.

Asking of questions by Transport Registration Officers.

6. Every Transport Registration Officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask.

Obligation to answer questions.

7. Every person of whom any question is asked under the last preceding section shall be legally bound to answer such question to the best of his knowledge or belief.

Occupier to allow access and permit affixing of marks.

8. Every person occupying any enclosure, or other place in which animals are kept shall allow Transport Registration Officers such access thereto as they may require for the purposes of the enumeration of animals and as, having regard to the customs of the country, may be reasonable.

Preparation of Register of Animals.

Preparation of register of animals.

9. (1) Every Transport Registration Officer may prepare or cause to be prepared—

(a) a register of any animals within the limits of the local area for which he is appointed which he is prepared to accept for branding for military transport purposes, and

(b) a register of all other animals within the said limits.

(2) Such registers shall be in the form and shall contain the particulars, which the Local Government may, by rules to be published in the official Gazette, prescribe, and shall be revised at such times and after the expiration of such period or periods as the Local Government may, by general or special rule or order, direct.

Value of animals to be entered in register.

10. (1) Every Transport Registration Officer shall, at the time of preparing or causing to be prepared or revising, as the case may be, the register as in clause (a) of sub-section (1) of the last preceding section provided, enter or cause to be entered therein the price at which every animal registered by him should in his opinion, regard being had to the market value of such animal, be valued, and shall at the same time inform the proprietor thereof of the price at which it has been so valued, and that if the proprietor agrees, in the event of the Local Government at any time desiring to acquire such animal, to sell it at that price and to permit it meanwhile to be branded in such manner as the Local Government may by rule framed in this behalf prescribe, the said animal, after being so branded, shall be at all times exempt from liability to seizure for hire.

(2) If the proprietor agrees as aforesaid the Transport Registration Officer shall make or cause to be made in the said register an entry signed by himself of the fact of such agreement, and shall cause the said proprie-

tor to attest such entry in such manner as the Local Government may by rule prescribe, and such entry shall thereafter be final and conclusive evidence of the fact of such agreement and of the value for the purposes of this Act of the animal to which it relates.

(3) Such agreement shall be binding on every person to whom the animal may be transferred or in whose possession it may be found as if he himself had entered into the said agreement.

Declaration of intended Acquisition.

Declaration that animals are required for public purposes.

11. *(1)* The Local Government may, on any occasion of mobilization of troops, declare, by a notification to be published in the official Gazette, that all, or any number of, or any particular class or classes of, animals, whether registered under the provisions of this Act or not so registered, are needed for public purposes.

(2) The said declaration shall be conclusive evidence that such animals or class or classes of animals as are therein specified are needed for public purposes, and after making such declaration the Local Government may acquire the said animals or any of them in manner hereinafter appearing.

After declaration Transport Registration Officer to take orders for acquisition.

12. Whenever any animals shall have been so declared to be needed for public purposes, the Local Government, or any person authorised by the Local Government in this behalf, may take steps for the acquisition of such animals.

Notice to persons interested.

13. *(1)* Every person authorised as in the last preceding section provided shall thereupon determine the number and class or classes of animals, whether branded or not branded under the provisions of section 10, to be acquired from each village or town within his jurisdiction, and select the animals to be produced before the Committee to be appointed as hereinafter described, and shall cause notice of such intended acquisition and of the time and place at which claims to compensation for all interests in any such animal may be made, to be given to every person who is or claims to be the proprietor, or is at the time in possession of any animal so selected.

(2) Every person to whom notice is given as in the preceding sub-section provided shall be bound to produce, at the time and place so specified, any animals in respect of which such notice is given as aforesaid.

(3) Should all or any of the animals requisitioned under sub-section *(1)* not be produced as in sub section *(2)* provided, the person authorized as aforesaid may seize such animals as he may consider necessary wheresoever they may be found and produce them or compel their production before the said Committee.

(4) The person authorised as aforesaid or the said Committee may also require any person claiming compensation in respect of any such animal or animals to make or deliver to him or them, at a time and place mentioned, a statement containing, so far as may be practicable, the name of every other person possessing any interest in such animal or animals and of the nature of such interest.

(5) Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. India Act XLV of 1860.

Enquiry and award by Committee.

14. *(1)* At the time and place appointed in the notice given under sub-section *(1)* of the last preceding section for the consideration of claims for compensation, or any other day to which the enquiry has been adjourned, a Committee constituted as may be directed by the Local Government by general or special rule made in this behalf, shall proceed to inspect every such animal and to enquire into the claims (if any) which any person interested has preferred pursuant to the notice under section 13, and into the value of every such animal, and, if necessary, into the respective interests of the persons claiming the compensation, in respect of any such animal, and shall make an award under their hand of—

(a) the true value of every such animal; and

(b) the compensation in respect thereof which in their opinion should be allowed; and, if necessary,

(c) the apportionment of the said compensation among all the persons of whose claims in respect of such animals they have information, whether or not such persons have respectively appeared before them :

Provided that in the case of an animal which has been the subject of agreement under the provisions of section 10, the price entered in the said register shall be deemed to be the true value of such animal;

Provided, also, that, notwithstanding anything in this Act contained, the Committee shall not be bound to purchase an animal unless they so think fit.

(2) Save as is hereinafter provided, the award of the Committee shall be final and conclusive evidence of the matters therein set forth, and shall not be subject to appeal.

Power to summon and enforce attendance of witnesses and production of documents.

15. For the purpose of enquiries under this Act, the Committee shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure.

India Act XIV of 1882.

Matters to be considered in awarding compensation.

16. *(1)* In determining the amount of compensation to be awarded for any animal, other than an animal that has been branded under the provisions of section 10, acquired under this Act, the Committee shall take into consideration the following and no other matters:—

first, but without regard to abnormal inflation of price, the market value of the animal at the time of the declaration relating thereto under section 11;

secondly, the damage (if any) sustained by the proprietor of the animal by reason of the acquisition injuriously affecting his other property, moveable or immoveable, or his earnings;

thirdly, the damage (if any) *bonâ fide* resulting from diminution of the profits of the animal between the time of the declaration under section 11 and the time of the taking possession thereof.

(2) In addition to the amount awarded under sub-section *(1)*, the Committee shall award a sum of fifteen per centum on the market value of the animal, in consideration of the compulsory nature of the acquisition.

Appeal to Collector.

17. Any person who is interested in an animal in respect of which an award has been made under section 14, and is dissatisfied with the apportionment of the compensation made by the Committee under clause (*c*) of sub-section *(1)* of that section, may appeal in respect of such apportionment within 15 days of the date of the award to the Collector of the district, who shall thereupon enquire into the objections to such apportionment, and shall, after hearing the appellant and taking such further or other evidence as he may think necessary, pass such order thereon as to him may seem proper.

Taking Possession.

Power to take possession.

18. When the Committee has made an award under section 14 *(1)*, any person duly authorised under section 12 may take possession of any animal to which such award relates, and every such animal shall thereupon become the property of Government absolutely.

Special power in case of urgency.

19. *(1)* In case of urgency, whenever the Local Government so directs, any person duly authorised under section 12, though no such award has been made, may, on the expiration of 24 hours from the time of issue of the notification under section 11, take possession of all or any of the animals to which such notification relates, and every such animal shall thereupon become the property of Government absolutely.

(2) In every case under sub-section *(1)*, the person so authorised shall at the time of taking possession record his opinion as to the value of such animal, and a Committee constituted as aforesaid shall, as soon after the taking of possession of the said animal as conveniently can be, proceed to make an award as far as may be in accordance with the provisions of section 14.

Apportionment of Compensation.

Particulars of apportionment to be specified.

20. Where there are several persons interested in an animal in respect of which an award has been made, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

21. *(1)* Any person who is dissatisfied with an order made by the Collector under section 17 or section 23 may require the Collector to refer the matter in dispute to the decision of the Court.

(2) The decision of the Court upon such reference shall be final and not subject to appeal.

Payment.

Payment of compensation or deposit of same in Court.

22. *(1)* On making an award under section 14, the Committee shall tender payment of the compensation awarded by them to the person or persons interested

entitled thereto according to the award, ans shall pay it to such person or persons unles-prevented by some one or more of the con tingencies mentioned in the next sub-section·

(2) If he or they shall not consent to receive it, or if there be no person present competent to alienate the animal, or if there be any dispute as to the title to receive the compensation or as to the persons to whom the same is payable or as to the apportionment of the same, the Committee shall deposit the amount of the compensation with the Collector :

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

Power of Court to deal with deposit.

23. If any money shall be deposited with the Collector under sub-section *(2)* of the last preceding section, the Collector shall pass such orders as to the payment, investment or disposal of such money as to the Collector shall seem fit.

Payment of interest.

24. When the amount of such compensation is not paid or deposited with the Collector on or before taking possession of the animal in respect of which it has been awarded or within 15 days of so taking possession the Committee shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until the money shall have been so paid or deposited.

Impressment for Hire.

Impressment for hire of animals and their acquisition if taken beyond India without the consent of the owner.

25. *(1)* At any time and for such period and upon such terms and conditions as may be considered reasonable or necessary, the Local Government or any officer generally or specially authorised by the Local Government in this behalf may, for purposes of military transport within India, impress for hire any animal other than an animal branded in accordance with the provisions of sub-section *(1)* of section 10.

(2) Every animal impressed for hire under the provisions of sub-section *(1)* for mobilization of troops proceeding on active service shall at the time of impressment be valued by a Committee appointed as in sub-section *(1)* of section 14 provided, and such value shall form the basis of any claim for compensation under sub-section *(3)*.

(3) In the event of any animal impressed for hire as aforesaid being taken, without the consent of the owner thereof, beyond the limits of India, the Local Government shall be deemed to have compulsorily acquired such animal, and shall pay to such owner as compensation in respect thereof a sum representing the value of such animal as fixed by the Committee under sub-section *(2)* together with a sum of fifteen per centum on the said value of the animal in consideration of the compulsory acquisition thereof.

(4) All the provisions of this Act relating to the production and seizure of animals to be compulsorily acquired shall, so far as may be, apply to the production and seizure of animals to be impressed for hire.

Acquisition and impressment for hire of vehicles and gear of animals.

26. All the provisions of this Act relating to the registration, acquisition or impressment for hire for purposes of military transport of animals shall, so far as they may, apply to the acquisition or impressment for hire for the said purposes of vehicles and gear and equipment of animals and to the registration of vehicles.

Miscellaneous.

Service of notices.

27. Service of any notice under this Act may be made by delivering or tendering a copy thereof signed by the officer therein named or by beat of drum and by the posting of a copy thereof in some conspicuous place in the village or town.

Penalties.

28. In any of the following cases, namely—

(1) if any person refuses to answer to the best of his knowledge or belief any question asked of him by a Transport Registration Officer which he is legally bound under section 7 to answer ;

(2) if any person occupying any enclosure, or other place in which animals are kept, refuses to allow a Transport Registration Officer such reasonable access thereto as he is required by section 8 to allow ;

(3) if any person wilfully obstructs a Transport Registration Officer, or any other person acting under lawful authority, in doing any of the acts authorized by this Act ;

he shall be punishable with fine which may extend to fifty rupees.

Fraudulent branding. Failure to produce branded animals or withdrawal of impressed animals.

29. Any person who—

(a) without lawful authority brands or causes to be branded any animal with the intention of causing it to be believed that such animal has been branded by or by order of an officer duly authorised in that behalf; or

(b) without reasonable excuse refuses, omits or neglects to comply with a notice requiring him to produce an animal at a time and place to be specified in such notice; or

(c) with intent to avoid the production, seizure or impressment of any animal or vehicle or gear or equipment of any animal removes or conceals such animal, vehicle, gear or equipment or obstructs such production, seizure or impressment thereof;

shall be punishable with fine which may extend to fifty rupees.

Jurisdiction in Prosecutions.

Jurisdiction.

30. *(1)* The Local Government may, by notification in the official Gazette, declare before what classes of Magistrates prosecutions under this Act may be instituted.

(2) Unless and until a notification is published under sub-section *(1)* of this section, all prosecutions under this Act shall be instituted before the District Magistrate.

(3) No prosecution under this Act shall be instituted except with the previous sanction of the Local Government or with the previous sanction of some officer authorised by the Local Government in this behalf.

Power to make rules.

Power to make rules.

31. *(1)* The Local Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, the Local Government may make rules—

(a) defining the duties of Transport Registration Officers;

(b) providing for the appointment and duties of persons detailed to perform any of the duties of the Transport Registration Officer or to give assistance towards the making of enumeration of animals;

(c) providing for the constitution, and defining the powers and duties, of Committees appointed under section 14;

(d) providing for the enumeration of animals in cases where it may be necessary or expedient to make special provision;

(e) specifying the terms and conditions upon which animals shall be impressed for hire under section 25;

(f) prescribing forms for such registers, books, statistics or accounts as the Local Government may think necessary to be kept, made or compiled, and specifying the particulars to be entered therein;

(g) specifying the manner in which, and the officers by whom or by whose authority, an animal shall, if its proprietor consents, be branded.

C. J. HALLIFAX,

Secy to Govt., Home (Legislative) Department.

Punjab Government Press, Lahore—12-2-03—735.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, FEBRUARY 19, 1903.

PART V.

Acts of the Lieutenant-Governor of the Punjab in Council which have received the assent of His Excellency the Governor-General in Council.

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[Second publication.]

THE following Act of the Lieutenant-Governor of the Punjab in Council received the assent of His Honour the Lieutenant-Governor on the 23rd December 1902, and that of His Excellency the Viceroy and Governor-General in Council on the 26th January 1003, and is hereby promulgated for general information :—

PUNJAB ACT No. I OF 1903.

(Assent of the Governor-General first published in the Gazette of 12th February 1903.)

An Act to provide for the periodical enumeration and registration of animals in the Punjab fit, or ordinarily used, for the purposes of military transport, and for the compulsory acquisition of such animals in time of war, and for impressment of the same for hire for purposes of military transport at any time.

WHEREAS it is expedient to provide for the periodical enumeration and registration of animals in the Punjab fit, or ordinarily used, for the purposes of military transport, and for the compulsory acquisition of such animals in time of war, and for impressment of the same for hire for such purposes at any time; It is hereby enacted as follows:—

Preliminary.

Short title, local extent and commencement.

1. *(1)* This Act may be called the Punjab Military Transport Animals Act, 1903.

(2) It extends to the territories for the time being under the administration of the Lieutenant-Governor of the Punjab; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

"animal" means any animal that is fit, or ordinarily used, for the purposes of transport, but does not include any bullock that is not trained to carry loads or draw carts.

"Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special Judicial-officer within any specified local limits to perform the functions of the Court under this Act.

Appointment of Officers.

Appointment of Transport Registration Officers.

3. *(1)* The Local Government may appoint any person to be a Transport Registration Officer for the purposes of this Act within any specified local area.

(2) All the powers conferred on a Transport Registration Officer by this Act shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

Proof of appointment of Transport Registration Officers and their status as public servants.

4. (1) A declaration in writing signed by any person authorised by the Local Government in this behalf that any person has been duly appointed a Transport Registration Officer for any local area shall be conclusive proof of such appointment.

India Act XLV of 1860.

(2) All Transport Registration Officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Power of Collector to call upon certain persons to give assistance.

5. (1) The Collector, or such officer as the Local Government may appoint in this behalf for any local area, may, by written order which shall have effect throughout the limits of his district or of such local area, as the case may be, call upon—

(a) all owners and occupiers of land and assignees of land-revenue and their agents ;

(b) all local and village officers, including zaildars, inamdars, headmen, watchmen, kanungos and patwaris;

(c) members of District Boards and Municipal Committees,

to give such assistance as the Transport Registration Officer needs towards the making of an enumeration of animals which are, at the time of the making of such enumeration, on the lands of such owners, occupiers, and assignees, or within the limits of such villages, districts, municipalities or other areas for or in which such local or village officers or such members are appointed or hold office as the case may be.

(2) Such order shall specify the nature of the assistance required, and such owners, occupiers, assignees and their agents and such local and village officers and such members shall be bound to obey it.

Asking of questions by Transport Registration Officers.

6. Every Transport Registration Officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask.

Obligation to answer questions.

7. Every person of whom any question is asked under the last preceding section shall be legally bound to answer such question to the best of his knowledge or belief.

Occupier to allow access and permit affixing of marks.

8. Every person occupying any enclosure, or other place in which animals are kept shall allow Transport Registration Officers such access thereto as they may require for the purposes of the enumeration of animals and as, having regard to the customs of the country, may be reasonable.

Preparation of Register of Animals.

Preparation of register of animals.

9. (1) Every Transport Registration Officer may prepare or cause to be prepared—

(a) a register of any animals within the limits of the local area for which he is appointed which he is prepared to accept for branding for military transport purposes, and

(b) a register of all other animals within the said limits.

(2) Such registers shall be in the form and shall contain the particulars, which the Local Government may, by rules to be published in the official Gazette, prescribe, and shall be revised at such times and after the expiration of such period or periods as the Local Government may, by general or special rule or order, direct.

Value of animals to be entered in register.

10. (1) Every Transport Registration Officer shall, at the time of preparing or causing to be prepared or revising, as the case may be, the register as in clause (a) of sub-section (1) of the last preceding section provided, enter or cause to be entered therein the price at which every animal registered by him should in his opinion, regard being had to the market value of such animal, be valued, and shall at the same time inform the proprietor thereof of the price at which it has been so valued, and that if the proprietor agrees, in the event of the Local Government at any time desiring to acquire such animal, to sell it at that price and to permit it meanwhile to be branded in such manner as the Local Government may by rule framed in this behalf prescribe, the said animal, after being so branded, shall be at all times exempt from liability to seizure for hire.

(2) If the proprietor agrees as aforesaid the Transport Registration Officer shall make or cause to be made in the said register an entry signed by himself of the fact of such agreement, and shall cause the said proprie-

tor to attest such entry in such manner as the Local Government may by rule prescribe, and such entry shall thereafter be final and conclusive evidence of the fact of such agreement and of the value for the purposes of this Act of the animal to which it relates.

(3) Such agreement shall be binding on every person to whom the animal may be transferred or in whose possession it may be found as if he himself had entered into the said agreement.

Declaration of intended Acquisition.

Declaration that animals are required for public purposes.

11. *(1)* The Local Government may, on any occasion of mobilization of troops, declare, by a notification to be published in the official Gazette, that all, or any number of, or any particular class or classes of, animals, whether registered under the provisions of this Act or not so registered, are needed for public purposes.

(2) The said declaration shall be conclusive evidence that such animals or class or classes of animals as are therein specified are needed for public purposes, and after making such declaration the Local Government may acquire the said animals or any of them in manner hereinafter appearing.

After declaration Transport Registration Officer to take orders for acquisition.

12. Whenever any animals shall have been so declared to be needed for public purposes, the Local Government, or any person authorised by the Local Government in this behalf, may take steps for the acquisition of such animals.

Notice to persons interested.

13. *(1)* Every person authorised as in the last preceding section provided shall thereupon determine the number and class or classes of animals, whether branded or not branded under the provisions of section 10, to be acquired from each village or town within his jurisdiction, and select the animals to be produced before the Committee to be appointed as hereinafter described, and shall cause notice of such intended acquisition and of the time and place at which claims to compensation for all interests in any such animal may be made, to be given to every person who is or claims to be the proprietor, or is at the time in possession of any animal so selected.

(2) Every person to whom notice is given as in the preceding sub-section provided shall be bound to produce, at the time and place so specified, any animals in respect of which such notice is given as aforesaid.

(3) Should all or any of the animals requisitioned under sub-section *(1)* not be produced as in sub-section *(2)* provided, the person authorized as aforesaid may seize such animals as he may consider necessary wheresoever they may be found and produce them or compel their production before the said Committee.

(4) The person authorised as aforesaid or the said Committee may also require any person claiming compensation in respect of any such animal or animals to make or deliver to him or them, at a time and place mentioned, a statement containing, so far as may be practicable, the name of every other person possessing any interest in such animal or animals and of the nature of such interest.

(5) Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. India Act XLV of 1860.

Enquiry and award by Committee.

14. *(1)* At the time and place appointed in the notice given under sub-section *(1)* of the last preceding section for the consideration of claims for compensation, or any other day to which the enquiry has been adjourned, a Committee constituted as may be directed by the Local Government by general or special rule made in this behalf, shall proceed to inspect every such animal and to enquire into the claims (if any) which any person interested has preferred pursuant to the notice under section 13, and into the value of every such animal, and, if necessary, into the respective interests of the persons claiming the compensation, in respect of any such animal, and shall make an award under their hand of—

(a) the true value of every such animal; and

(b) the compensation in respect thereof which in their opinion should be allowed; and, if necessary,

(c) the apportionment of the said compensation among all the persons of whose claims in respect of such animals they have information, whether or not such persons have respectively appeared before them:

Provided that in the case of an animal which has been the subject of agreement under the provisions of section 10, the price entered in the said register shall be deemed to be the true value of such animal:

Provided, also, that, notwithstanding anything in this Act contained, the Committee shall not be bound to purchase an animal unless they so think fit.

(2) Save as is hereinafter provided, the award of the Committee shall be final and conclusive evidence of the matters therein set forth, and shall not be subject to appeal.

Power to summon and enforce attendance of witnesses and production of documents.

15. For the purpose of enquiries under this Act, the Committee shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure.

India Act XIV of 1882.

Matters to be considered in awarding compensation.

16. *(1)* In determining the amount of compensation to be awarded for any animal, other than an animal that has been branded under the provisions of section 10, acquired under this Act, the Committee shall take into consideration the following and no other matters:—

first, but without regard to abnormal inflation of price, the market value of the animal at the time of the declaration relating thereto under section 11;

secondly, the damage (if any) sustained by the proprietor of the animal by reason of the acquisition injuriously affecting his other property, moveable or immoveable, or his earnings;

thirdly, the damage (if any) *bonâ fide* resulting from diminution of the profits of the animal between the time of the declaration under section 11 and the time of the taking possession thereof.

(2) In addition to the amount awarded under sub-section *(1)*, the Committee shall award a sum of fifteen per centum on the market value of the animal, in consideration of the compulsory nature of the acquisition.

Appeal to Collector.

17. Any person who is interested in an animal in respect of which an award has been made under section 14, and is dissatisfied with the apportionment of the compensation made by the Committee under clause (*c*) of sub-section *(1)* of that section, may appeal in respect of such apportionment within 15 days of the date of the award to the Collector of the district, who shall thereupon enquire into the objections to such apportionment, and shall, after hearing the appellant and taking such further or other evidence as he may think necessary, pass such order thereon as to him may seem proper.

Taking Possession.

Power to take possession.

18. When the Committee has made an award under section 14 *(1)*, any person duly authorised under section 12 may take possession of any animal to which such award relates, and every such animal shall thereupon become the property of Government absolutely.

Special power in case of urgency.

19. *(1)* In case of urgency, whenever the Local Government so directs, any person duly authorised under section 12, though no such award has been made, may, on the expiration of 24 hours from the time of issue of the notification under section 11, take possession of all or any of the animals to which such notification relates, and every such animal shall thereupon become the property of Government absolutely.

(2) In every case under sub-section *(1)*, the person so authorised shall at the time of taking possession record his opinion as to the value of such animal, and a Committee constituted as aforesaid shall, as soon after the taking of possession of the said animal as conveniently can be, proceed to make an award as far as may be in accordance with the provisions of section 14.

Apportionment of Compensation.

Particulars of apportionment to be specified.

20. Where there are several persons interested in an animal in respect of which an award has been made, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

21. *(1)* Any person who is dissatisfied with an order made by the Collector under section 17 or section 23 may require the Collector to refer the matter in dispute to the decision of the Court.

(2) The decision of the Court upon such reference shall be final and not subject to appeal.

Payment.

Payment of compensation or deposit of same in Court.

22. *(1)* On making an award under section 14, the Committee shall tender payment of the compensation awarded by them to the person or persons interested

entitled thereto according to the award, and shall pay it to such person or persons unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If he or they shall not consent to receive it, or if there be no person present competent to alienate the animal, or if there be any dispute as to the title to receive the compensation or as to the persons to whom the same is payable or as to the apportionment of the same, the Committee shall deposit the amount of the compensation with the Collector :

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

Power of Court to deal with deposit.

23. If any money shall be deposited with the Collector under sub-section *(2)* of the last preceding section, the Collector shall pass such orders as to the payment, investment or disposal of such money as to the Collector shall seem fit.

Payment of interest.

24. When the amount of such compensation is not paid or deposited with the Collector on or before taking possession of the animal in respect of which it has been awarded or within 15 days of so taking possession the Committee shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until the money shall have been so paid or deposited.

Impressment for Hire.

Impressment for hire of animals and their acquisition if taken beyond India without the consent of the owner.

25. *(1)* At any time and for such period and upon such terms and conditions as may be considered reasonable or necessary, the Local Government or any officer generally or specially authorised by the Local Government in this behalf may, for purposes of military transport within India, impress for hire any animal other than an animal branded in accordance with the provisions of sub-section *(1)* of section 10.

(2) Every animal impressed for hire under the provisions of sub-section *(1)* for mobilization of troops proceeding on active service shall at the time of impressment be valued by a Committee appointed as in sub-section *(1)* of section 14 provided, and such value shall form the basis of any claim for compensation under sub-section *(3)*.

(3) In the event of any animal impressed for hire as aforesaid being taken, without the consent of the owner thereof, beyond the limits of India, the Local Government shall be deemed to have compulsorily acquired such animal, and shall pay to such owner as compensation in respect thereof a sum representing the value of such animal as fixed by the Committee under sub-section *(2)* together with a sum of fifteen per centum on the said value of the animal in consideration of the compulsory acquisition thereof.

(4) All the provisions of this Act relating to the production and seizure of animals to be compulsorily acquired shall, so far as may be, apply to the production and seizure of animals to be impressed for hire.

Acquisition and impressment for hire of vehicles and gear of animals.

26. All the provisions of this Act relating to the registration, acquisition or impressment for hire for purposes of military transport of animals shall, so far as they may, apply to the acquisition or impressment for hire for the said purposes of vehicles and gear and equipment of animals and to the registration of vehicles.

Miscellaneous.

Service of notices.

27. Service of any notice under this Act may be made by delivering or tendering a copy thereof signed by the officer therein named or by beat of drum and by the posting of a copy thereof in some conspicuous place in the village or town.

Penalties.

28. In any of the following cases, namely—

(1) if any person refuses to answer to the best of his knowledge or belief any question asked of him by a Transport Registration Officer which he is legally bound under section 7 to answer ;

(2) if any person occupying any enclosure, or other place in which animals are kept, refuses to allow a Transport Registration Officer such reasonable access thereto as he is required by section 8 to allow;

(3) if any person wilfully obstructs a Transport Registration Officer, or any other person acting under lawful authority, in doing any of the acts authorized by this Act;

he shall be punishable with fine which may extend to fifty rupees.

Fraudulent branding. Failure to produce branded animals or withdrawal of impressed animals.

29. Any person who—

(a) without lawful authority brands or causes to be branded any animal with the intention of causing it to be believed that such animal has been branded by or by order of an officer duly authorised in that behalf; or

(b) without reasonable excuse refuses' omits or neglects to comply with a notice requiring him to produce an animal at a time and place to be specified in such notice; or

(c) with intent to avoid the production, seizure or impressment of any animal or vehicle or gear or equipment of any animal removes or conceals such animal, vehicle, gear or equipment or obstructs such production, seizure or impressment thereof;

shall be punishable with fine which may extend to fifty rupees.

Jurisdiction in Prosecutions.

Jurisdiction.

30. *(1)* The Local Government may, by notification in the official Gazette, declare before what classes of Magistrates prosecutions under this Act may be instituted.

(2) Unless and until a notification is published under sub-section *(1)* of this section, all prosecutions under this Act shall be instituted before the District Magistrate.

(3) No prosecution under this Act shall be instituted except with the previous sanction of the Local Government or with the previous sanction of some officer authorised by the Local Government in this behalf.

Power to make rules.

Power to make rules.

31. *(1)* The Local Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, the Local Government may make rules—

(a) defining the duties of Transport Registration Officers;

(b) providing for the appointment and duties of persons detailed to perform any of the duties of the Transport Registration Officer or to give assistance towards the making of enumeration of animals;

(c) providing for the constitution, and defining the powers and duties, of Committees appointed under section 14;

(d) providing for the enumeration of animals in cases where it may be necessary or expedient to make special provision;

(e) specifying the terms and conditions upon which animals shall be impressed for hire under section 25;

(f) prescribing forms for such registers, books, statistics or accounts as the Local Government may think necessary to be kept, made or compiled, and specifying the particulars to be entered therein;

(g) specifying the manner in which, and the officers by whom or by whose authority, an animal shall, if its proprietor consents, be branded.

C. J. HALLIFAX,

Secy to Govt., Home (Legislative) Department.

Punjab Government Press, Lahore—19-2-03—735.

DIEU ET MON DROIT.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, FEBRUARY 26, 1903.

PART V.

Acts of the Lieutenant-Governor of the Punjab in Council which have received the assent of His Excellency the Governor-General in Council.

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[Third publication.]

THE following Act of the Lieutenant-Governor of the Punjab in Council received the assent of His Honour the Lieutenant-Governor on the 23rd December 1902, and that of His Excellency the Viceroy and Governor-General in Council on the 26th January 1903, and is hereby promulgated for general information :—

PUNJAB ACT NO. I OF 1903.

(Assent of the Governor-General first published in the Gazette of 12th February 1903.)

An Act to provide for the periodical enumeration and registration of animals in the Punjab fit, or ordinarily used, for the purposes of military transport, and for the compulsory acquisition of such animals in time of war, and for impressment of the same for hire for purposes of military transport at any time.

WHEREAS it is expedient to provide for the periodical enumeration and registration of animals in the Punjab fit, or ordinarily used, for the purposes of military transport, and for the compulsory acquisition of such animals in time of war, and for impressment of the same for hire for such purposes at any time; it is hereby enacted as follows :—

Preliminary.

Short title, local extent and commencement.

1. *(1)* This Act may be called the Punjab Military Transport Animals Act, 1903.

(2) It extends to the territories for the time being under the administration of the Lieutenant-Governor of the Punjab; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

"animal" means any animal that is fit, or ordinarily used, for the purposes of transport, but does not include any bullock that is not trained to carry loads or draw carts.

"Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special Judicial-officer within any specified local limits to perform the functions of the Court under this Act.

Appointment of Officers.

Appointment of Transport Registration Officers.

3. *(1)* The Local Government may appoint any person to be a Transport Registration Officer for the purposes of this Act within any specified local area.

(2) All the powers conferred on a Transport Registration Officer by this Act shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

Proof of appointment of Transport Registration Officers and their status as public servants.

4. *(1)* A declaration in writing signed by any person authorised by the Local Government in this behalf that any person has been duly appointed a Transport Registration Officer for any local area shall be conclusive proof of such appointment.

India Act XLV of 1860.

(2) All Transport Registration Officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Power of Collector to call upon certain persons to give assistance.

5. *(1)* The Collector, or such officer as the Local Government may appoint in this behalf for any local area, may, by written order which shall have effect throughout the limits of his district or of such local area, as the case may be, call upon—

(a) all owners and occupiers of land and assignees of land-revenue and their agents ;

(b) all local and village officers, including zaildars, inamdars, headmen, watchmen, kanungos and patwaris;

(c) members of District Boards and Municipal Committees,

to give such assistance as the Transport Registration Officer needs towards the making of an enumeration of animals which are, at the time of the making of such enumeration, on the lands of such owners, occupiers, and assignees, or within the limits of such villages, districts, municipalities or other areas for or in which such local or village officers or such members are appointed or hold office as the case may be.

(2) Such order shall specify the nature of the assistance required, and such owners, occupiers, assignees and their agents and such local and village officers and such members shall be bound to obey it.

Asking of questions by Transport Registration Officers.

6. Every Transport Registration Officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask.

Obligation to answer questions.

7. Every person of whom any question is asked under the last preceding section shall be legally bound to answer such question to the best of his knowledge or belief.

Occupier to allow access and permit affixing of marks.

8. Every person occupying any enclosure, or other place in which animals are kept shall allow the Transport Registration Officers such access thereto as they may require for the purposes of the enumeration of animals and as, having regard to the customs of the country, may be reasonable.

Preparation of Register of Animals.

Preparation of register of animals.

9. *(1)* Every Transport Registration Officer may prepare or cause to be prepared—

(a) a register of any animals within the limits of the local area for which he is appointed which he is prepared to accept for branding for military transport purposes, and

(b) a register of all other animals within the said limits.

(2) Such registers shall be in the form and shall contain the particulars, which the Local Government may, by rules to be published in the official Gazette, prescribe, and shall be revised at such times and after the expiration of such period or periods as the Local Government may, by general or special rule or order, direct.

Value of animals to be entered in register.

10. *(1)* Every Transport Registration Officer shall, at the time of preparing or causing to be prepared or revising, as the case may be, the register as in clause *(a)* of sub-section *(1)* of the last preceding section provided, enter or cause to be entered therein the price at which every animal registered by him should in his opinion, regard being had to the market value of such animal, be valued, and shall at the same time inform the proprietor thereof of the price at which it has been so valued, and that if the proprietor agrees, in the event of the Local Government at any time desiring to acquire such animal, to sell it at that price and to permit it meanwhile to be branded in such manner as the Local Government may by rule framed in this behalf prescribe, the said animal, after being so branded, shall be at all times exempt from liability to seizure for hire.

(2) If the proprietor agrees as aforesaid the Transport Registration Officer shall make or cause to be made in the said register an entry signed by himself of the fact of such agreement, and shall cause the said propriе-

tor to attest such entry in such manner as the Local Government may by rule prescribe, and such entry shall thereafter be final and conclusive evidence of the fact of such agreement and of the value for the purposes of this Act of the animal to which it relates.

(3) Such agreement shall be binding on every person to whom the animal may be transferred or in whose possession it may be found as if he himself had entered into the said agreement.

Declaration of intended Acquisition.

Declaration that animals are required for public purposes.

11. *(1)* The Local Government may, on any occasion of mobilization of troops, declare, by a notification to be published in the official Gazette, that all, or any number of, or any particular class or classes of, animals, whether registered under the provisions of this Act or not so registered, are needed for public purposes.

(2) The said declaration shall be conclusive evidence that such animals or class or classes of animals as are therein specified are needed for public purposes, and after making such declaration the Local Government may acquire the said animals or any of them in manner hereinafter appearing.

After declaration Transport Registration Officer to take orders for acquisition.

12. Whenever any animals shall have been so declared to be needed for public purposes, the Local Government, or any person authorised by the Local Government in this behalf, may take steps for the acquisition of such animals.

Notice to persons interested.

13. *(1)* Every person authorised as in the last preceding section provided shall thereupon determine the number and class or classes of animals, whether branded or not branded under the provisions of section 10, to be acquired from each village or town within his jurisdiction, and select the animals to be produced before the Committee to be appointed as hereinafter described, and shall cause notice of such intended acquisition and of the time and place at which claims to compensation for all interests in any such animal may be made, to be given to every person who is or claims to be the proprietor, or is at the time in possession of any animal so selected.

(2) Every person to whom notice is given as in the preceding sub-section provided shall be bound to produce, at the time and place so specified, any animals in respect of which such notice is given as aforesaid.

(3) Should all or any of the animals requisitioned under sub-section *(1)* not be produced as in sub-section *(2)* provided, the person authorized as aforesaid may seize such animals as he may consider necessary wheresoever they may be found and produce them or compel their production before the said Committee.

(4) The person authorised as aforesaid or the said Committee may also require any person claiming compensation in respect of any such animal or animals to make or deliver to him or them, at a time and place mentioned, a statement containing, so far as may be practicable, the name of every other person possessing any interest in such animal or animals and of the nature of such interest.

(5) Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. India Act XLV of 1860.

Enquiry and award by Committee.

14. *(1)* At the time and place appointed in the notice given under sub-section *(1)* of the last preceding section for the consideration of claims for compensation, or any other day to which the enquiry has been adjourned, a Committee constituted as may be directed by the Local Government by general or special rule made in this behalf, shall proceed to inspect every such animal and to enquire into the claims (if any) which any person interested has preferred pursuant to the notice under section 13, and into the value of every such animal, and, if necessary, into the respective interests of the persons claiming the compensation, in respect of any such animal, and shall make an award under their hand of—

(a) the true value of every such animal; and

(b) the compensation in respect thereof which in their opinion should be allowed; and, if necessary,

(c) the apportionment of the said compensation among all the persons of whose claims in respect of such animals they have information, whether or not such persons have respectively appeared before them :

Provided that in the case of an animal which has been the subject of agreement under the provisions of section 10, the price entered in the said register shall be deemed to be the true value of such animal:

Provided, also, that, notwithstanding anything in this Act contained, the Committee shall not be bound to purchase an animal unless they so think fit.

(2) Save as is hereinafter provided, the award of the Committee shall be final and conclusive evidence of the matters therein set forth, and shall not be subject to appeal.

15. For the purpose of enquiries under this Act, the Committee shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure.

Power to summon and enforce attendance of witnesses and production of documents.

India Act XIV of 1882.

16. *(1)* In determining the amount of compensation to be awarded for any animal, other than an animal that has been branded under the provisions of section 10, acquired under this Act, the Committee shall take into consideration the following and no other matters:—

Matters to be considered in awarding compensation.

first, but without regard to abnormal inflation of price, the market value of the animal at the time of the declaration relating thereto under section 11;

secondly, the damage (if any) sustained by the proprietor of the animal by reason of the acquisition injuriously affecting his other property, moveable or immoveable, or his earnings;

thirdly, the damage (if any) *bonâ fide* resulting from diminution of the profits of the animal between the time of the declaration under section 11 and the time of the taking possession thereof.

(2) In addition to the amount awarded under sub-section *(1)*, the Committee shall award a sum of fifteen per centum on the market value of the animal, in consideration of the compulsory nature of the acquisition.

17. Any person who is interested in an animal in respect of which an award has been made under section 14, and is dissatisfied with the apportionment of the compensation made by the Committee under clause *(c)* of sub-section *(1)* of that section, may appeal in respect of such apportionment within 15 days of the date of the award to the Collector of the district, who shall thereupon enquire into the objections to such apportionment, and shall, after hearing the appellant and taking such further or other evidence as he may think necessary, pass such order thereon as to him may seem proper.

Appeal to Collector.

Taking Possession.

18. When the Committee has made an award under section 14 *(1)*, any person duly authorised under section 12 may take possession of any animal to which such award relates, and every such animal shall thereupon become the property of Government absolutely.

Power to take possession.

19. *(1)* In case of urgency, whenever the Local Government so directs, any person duly authorised under section 12, though no such award has been made, may, on the expiration of 24 hours from the time of issue of the notification under section 11, take possession of all or any of the animals to which such notification relates, and every such animal shall thereupon become the property of Government absolutely.

Special power in case of urgency.

(2) In every case under sub-section *(1)*, the person so authorised shall at the time of taking possession record his opinion as to the value of such animal, and a Committee constituted as aforesaid shall, as soon after the taking of possession of the said animal as conveniently can be, proceed to make an award as far as may be in accordance with the provisions of section 14.

Apportionment of Compensation.

20. Where there are several persons interested in an animal in respect of which an award has been made, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Particulars of apportionment to be specified.

21. *(1)* Any person who is dissatisfied with an order made by the Collector under section 17 or section 23 may require the Collector to refer the matter in dispute to the decision of the Court.

Dispute as to apportionment.

(2) The decision of the Court upon such reference shall be final and not subject to appeal.

Payment.

22. *(1)* On making an award under section 14, the Committee shall tender payment of the compensation awarded by them to the person or persons interested

Payment of compensation or deposit of same in Court.

entitled thereto according to the award, and shall pay it to such person or persons unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If he or they shall not consent to receive it, or if there be no person present competent to alienate the animal, or if there be any dispute as to the title to receive the compensation or as to the persons to whom the same is payable or as to the apportionment of the same, the Committee shall deposit the amount of the compensation with the Collector :

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

Power of Court to deal with deposit.

23. If any money shall be deposited with the Collector under sub-section *(2)* of the last preceding section, the Collector shall pass such orders as to the payment, investment or disposal of such money as to the Collector shall seem fit.

Payment of interest.

24. When the amount of such compensation is not paid or deposited with the Collector on or before taking possession of the animal in respect of which it has been awarded or within 15 days of so taking possession the Committee shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until the money shall have been so paid or deposited.

Impressment for Hire.

Impressment for hire of animals and their acquisition if taken beyond India without the consent of the owner.

25. *(1)* At any time and for such period and upon such terms and conditions as may be considered reasonable or necessary, the Local Government or any officer generally or specially authorised by the Local Government in this behalf may, for purposes of military transport within India, impress for hire any animal other than an animal branded in accordance with the provisions of sub-section *(1)* of section 10.

(2) Every animal impressed for hire under the provisions of sub-section *(1)* for mobilization of troops proceeding on active service shall at the time of impressment be valued by a Committee appointed as in sub-section *(1)* of section 14 provided, and such value shall form the basis of any claim for compensation under sub-section *(3)*.

(3) In the event of any animal impressed for hire as aforesaid being taken, without the consent of the owner thereof, beyond the limits of India, the Local Government shall be deemed to have compulsorily acquired such animal, and shall pay to such owner as compensation in respect thereof a sum representing the value of such animal as fixed by the Committee under sub-section *(2)* together with a sum of fifteen per centum on the said value of the animal in consideration of the compulsory acquisition thereof.

(4) All the provisions of this Act relating to the production and seizure of animals to be compulsorily acquired shall, so far as may be, apply to the production and seizure of animals to be impressed for hire.

Acquisition and impressment for hire of vehicles and gear of animals.

26. All the provisions of this Act relating to the registration, acquisition or impressment for hire for purposes of military transport of animals shall, so far as they may, apply to the acquisition or impressment for hire for the said purposes of vehicles and gear and equipment of animals and to the registration of vehicles.

Miscellaneous.

Service of notices.

27. Service of any notice under this Act may be made by delivering or tendering a copy thereof signed by the officer therein named or by beat of drum and by the posting of a copy thereof in some conspicuous place in the village or town.

Penalties.

28. In any of the following cases, namely—

(1) if any person refuses to answer to the best of his knowledge or belief any question asked of him by a Transport Registration Officer which he is legally bound under section 7 to answer;

(2) if any person occupying any enclosure, or other place in which animals are kept, refuses to allow a Transport Registration Officer such reasonable access thereto as he is required by section 8 to allow;

(3) if any person wilfully obstructs a Transport Registration Officer, or any other person acting under lawful authority, in doing any of the acts authorized by this Act;

he shall be punishable with fine which may extend to fifty rupees.

Fraudulent branding. Failure to produce branded animals or withdrawal of impressed animals.

29. Any person who—

(a) without lawful authority brands or causes to be branded any animal with the intention of causing it to be believed that such animal has been branded by or by order of an officer duly authorised in that behalf; or

(b) without reasonable excuse refuses, omits or neglects to comply with a notice requiring him to produce an animal at a time and place to be specified in such notice; or

(c) with intent to avoid the production, seizure or impressment of any animal or vehicle or gear or equipment of any animal removes or conceals such animal, vehicle, gear or equipment or obstructs such production, seizure or impressment thereof;

shall be punishable with fine which may extend to fifty rupees.

Jurisdiction in Prosecutions.

Jurisdiction.

30. *(1)* The Local Government may, by notification in the official Gazette, declare before what classes of Magistrates prosecutions under this Act may be instituted.

(2) Unless and until a notification is published under sub-section *(1)* of this section, all prosecutions under this Act shall be instituted before the District Magistrate.

(3) No prosecution under this Act shall be instituted except with the previous sanction of the Local Government or with the previous sanction of some officer authorised by the Local Government in this behalf.

Power to make rules.

Power to make rules.

31. *(1)* The Local Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, the Local Government may make rules—

(a) defining the duties of Transport Registration Officers;

(b) providing for the appointment and duties of persons detailed to perform any of the duties of the Transport Registration Officer or to give assistance towards the making of enumeration of animals;

(c) providing for the constitution, and defining the powers and duties, of Committees appointed under section 14;

(d) providing for the enumeration of animals in cases where it may be necessary or expedient to make special provision;

(e) specifying the terms and conditions upon which animals shall be impressed for hire under section 25;

(f) prescribing forms for such registers, books, statistics or accounts as the Local Government may think necessary to be kept, made or compiled, and specifying the particulars to be entered therein;

(g) specifying the manner in which, and the officers by whom or by whose authority, an animal shall, if its proprietor consents, be branded.

C. J. HALLIFAX,

Secy. to Govt., Home (Legislative) Department.

Punjab Government Press, Lahore—26-2-03—735.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MAY 14, 1903.

PART V.

Bill was introduced in the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations.

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[First publication.]

THE following Bill was introduced in the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations on the 11th May 1903:—

Bill No. 1 of 1903.

A Bill to amend the law relating to the limitation of suits for the recovery of money due on account of money lent or advanced, or on an account stated, or inrespect of goods supplied.

WHEREAS it is expedient to amend the law relating to the limitation of suits for the recovery of money due on account of money lent or advanced, or on an account stated, or in respect of goods supplied; it is hereby enacted as follows:—

Short title.

1. (*1*) This Act may be called the Punjab Loans Limitation Act, 1903.

Local extent.

(*2*) It extends to the Province of the Punjab.

Definition.

2. For the purposes of this Act the expression "instituted" shall have the meaning assigned to it in the explanation to section 4 of the Indian Limitation Act, 1877. India Act XV of 1877.

Dismissal of suits of the description specified in the Act if instituted after the period of limitation therein prescribed has expired.

3. Subject to the provisions contained in sections 5 to 25 (inclusive) of the Indian Limitation Act, 1877, and notwithstanding anything in the second schedule of the same Act to the contrary, every suit of the description specified in the schedule hereto annexed shall, if instituted after the period of limitation therein prescribed, be dismissed, although limitation has not been set up as a defence. India Act XV of 1877.

Right to sue barred not to be revived.

4. Nothing herein contained shall be deemed to revive any right to sue barred under the Indian Limitation Act, 1877. India Act XV of 1877.

THE SCHEDULE.

Description of suit.	Period of limitation.	Time from which period begins to run.
1. Suits of the description specified in Articles 52, 53, 57, 58, 59, 63, 64, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 80 and 85 of the second schedule of the Indian Limitation Act, 1877, if based on unregistered contracts.	6 years ...	The periods respectively specified in the said articles.

H. A. B. RATTIGAN,
Secretary, Legislative Council, Punjab.

C. L. TUPPER,
Member.

STATEMENT OF OBJECTS AND REASONS.

THE object of the present Bill is to extend the period of limitation from three to six years for suits of the description specified in the schedule. As the law stands at present, a suit for recovery of money due on account of a loan or an advance or in respect of an account stated or for goods supplied must, if the agreement upon which it is based has not been registered, in the ordinary course be instituted within three years of the dates respectively specified in the articles of the Indian Limitation Act, 1877, referred to in the schedule to the Bill, whereas in all such cases, if the agreement in question has been registered, a suit of the kind mentioned may be brought within six years of the said date. In these particular instances there seems to be no good reason for this distinction, while on the other hand it is considered that the period of three years allowed in the case of unregistered agreements is unduly short, and might advantageously be considerably extended. It is well known that a creditor, who would otherwise be quite content to give further time to his debtor, is often forced to institute legal proceedings simply in order to prevent his claim from becoming barred by limitation, with the result that litigation and its necessary consequence, bad feeling between the parties, are unnecessarily engendered. It is with a view to avoid such unfortunate results and to encourage creditors to allow their debtors further time for payment that the present Bill has been drafted, and it is hoped that if its provisions become law, there will be a decrease of litigation.

A measure such as the present Bill has been frequently proposed in the interests alike of indebted peasant proprietors and of the village money-lenders who are often forced by the existing law to put them into Court. But it is thought that all classes of the community may very properly have the benefit of what is believed to be a salutary change in the law; which moreover possesses the commercial advantage of assimilating the rule to be observed here with that which is already prescribed by the law of England.

H. A. B. RATTIGAN,
Secretary, Legislative Council, Punjab.

C. L. TUPPER,
Member.

Bills introduced in the Council of the Lieutenant-Governor of the Punjab for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 18 (of the Rules for the Conduct of Business at Meetings of the Council).

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

THE following Report of the Select Committee on the Bill to consolidate and amend the Law relating to Court of Wards in the Punjab, was presented to the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations, on the 11th May 1903:—

WE, the undersigned members of the Select Committee to which the Bill to consolidate and amend the Law relating to Court of Wards in the Punjab was referred, have considered the Bill, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto. The more important amendments made by us are explained in the subjoined notes dealing with the various clauses revised by us, all other alterations being either merely incidental to the main amendments or of a trifling character and self-explanatory.

Clause 3 (*d*).—As originally defined, the term "ward" would have included a person who was not otherwise disqualified, but of whose share in joint property the Court of Wards assumes superintendence under the provisions of clause 8 of the Bill. In our opinion, while it is expedient that the management of such share in joint property should vest in the Court of Wards, it is not necessary that the proprietor of that share should be subject to the disabilities attaching to wards of the Court, or that the Court should have the same extensive powers of management in respect of his share in such property as are given to it in respect of the property of wards. We have accordingly amended the definition of "ward" so as to exclude any such joint proprietor, and in *clause* 8 we have expressly limited the Court's powers of management over such proprietor's property. It is further to be noted that we have in *clause* 47 provided that while in the case of property owned by more proprietors than one the Court may retain superintendence of the whole of the property if one or more of such proprietors remain wards, although other of the proprietors may have ceased to be under any legal disability, no such proprietor who has ceased to be under any legal disability is to be deemed to be "a ward" for the purposes of the Act.

The amendment of the definition of "ward" for the reasons above mentioned has necessitated certain verbal alterations throughout the Bill, especially in Chapter IV, which deals with "wardship and its consequences."

Clause 7 (*1*).—In our opinion it is inadvisable to give the Court no discretion as to whether it shall or shall not assume the superintendence of the person when an order has been passed under clause 5 (*2*) (*a*) and (*b*). On the contrary, we think that the Court should in this matter have the widest discretion, especially as regards orders relating to female land-holders.

Clause 8.—Our definition of "ward" sufficiently provides that a joint proprietor of whose share in the property the Court assumes superintendence under this clause shall not be personally subject to the guardianship of the Court or of any other person under this Bill, but we have in this clause gone further and expressly provided that the Court's management of such proprietor's share shall not include the power of selling or mortgaging or creating any charge on or interest in such share; at the same time we have given the Court the power to lease such share for a period not exceeding 20 years, this being, in our opinion, the extreme limit of disposition over such property which should be transferred from the proprietor to the Court.

Chapters IV, V, VI, VII and VIII.—These chapters have been throughout revised by us with the object of securing the non-disqualified joint proprietor from the disabilities attaching to a ward of the Court.

Clause 19.—The expression "Deputy Commissioner charged with the superintendence of the person or property or both of the ward," which occurs both in this clause and in clauses 20 (2) and 44 of the original Bill, has been altered by us into the more correct expression "Deputy Commissioner of the district specified in the order of assumption in the notification under section 9."

Clause 20 has been slightly amended by us in order to make it quite clear that the Court of Wards is to be the plaintiff or defendant, as the case may be, in all suits affecting either its wards or properties under its superintendence, and that every such suit may be instituted and prosecuted or defended by the Deputy Commissioner, manager or other person authorised in that behalf by the Court of Wards.

Clause 24 of the original Bill detailed certain duties of the Court of Wards and its agents in regard to the properties under its superintendence. Most of the duties so specified are sufficiently provided for in other parts of the Bill and the clause itself was in our opinion quite unnecessary. We have consequently omitted it.

Clause 29.—We do not think that it would be possible, without very great inconvenience and trouble, for the Deputy Commissioner to rank claims, giving priority to those secured as against those unsecured, and to make payments accordingly *pro rata* as assets become available, nor do we consider that equity or justice requires that priority shall be given to one class of admitted liabilities over another class. We have therefore omitted the original sub-clause (*2*) of this clause, and have provided that if the Deputy Commissioner finds that admitted liabilities cannot be paid at once, he shall fix the interest (if any) to be paid thereon from the date of his decision to the date of payment or discharge of such liabilities.

Clause 32 (*2*).—In lieu of this clause as it originally stood we have adopted the provisions, so far as they are applicable, of section 19 of the North-West Provinces Act, III of 1899, with, however, this important modification that we empower the decree-holder to proceed with the execution of his decree as soon as he obtains from the Deputy Commissioner a certificate that the claim based on the decree has been duly notified and admitted.

Clause 33 we have made expressly subject to clause 32 as well as to clause 19, and have thus made it consistent with the provision explained in the preceding paragraph. As the clause stood, a person could "prosecute a suit," or continue execution proceedings, only if his claim had been in whole or in part disallowed, but not if his claim had been allowed by the Deputy Commissioner.

Clause 47 *proviso* has already been explained in the note dealing with the amended definition of the expression "ward."

The Bill was published in English in the *Punjab Gazette* of the 13th, 20th and 27th November 1902, and in Urdu in the *Punjab Gazette* of the 27th November, 4th and 11th December 1902, and need not, in our opinion, be re-published.

C. L. TUPPER.
J. B. HUTCHINSON.
MADAN GOPAL.
ALEX. ANDERSON.

LAHORE:
The 2nd May 1903.

Annexure to Report of Select Committee.

Bill No 4 of 1902

AS AMENDED BY THE SELECT COMMITTEE.

A Bill to consolidate and amend the law relating to the Court of Wards in the Punjab.

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the Punjab; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Punjab Court of Wards Act, 1903.

(*2*) It extends to the whole of the Punjab.

Repeal. — N.-W. P. Act III of 1899, sec. 2.

2. (*1*) The enactments specified in the schedule are hereby repealed to the extent mentioned in the third column thereof.

(*2*) But all rules and appointments made, notifications and orders issued, authorities and powers conferred, farms and leases granted, rights acquired, liabilities incurred and other things done under any of those enactments shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, acquired, incurred and done under this Act.

(*3*) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or the corresponding portion thereof.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context, the expression—

(*a*) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but shall not include growing crops or grass; — Punjab General Clauses Act I of 1898, sec. 2 (*20*).

(*b*) "land-holder" shall mean a person who possesses any interest in land, whether as proprietor, assignee of the land-revenue, lessee of waste lands or otherwise;

(*c*) "minor" shall mean a person who has not, within the meaning of the Indian Majority Act, 1875, attained his majority; and — India Acts IX of 1875 and VIII of 1890, sec. 4 (*1*).

(*d*) "ward" shall mean any person in respect of whose person, or the whole or any part of whose property, or of whose person, and property, the Court of Wards by this Act constituted for the time being *has assumed superintendence, but shall not include a joint proprietor the superintendence of whose property has been assumed by the Court of Wards under section 8.*

CHAPTER II.

THE COURT OF WARDS AND ITS JURISDICTION.

Constitution of the Court of Wards and its jurisdiction. — N.-W. P. Act III of 1899, sec. 4; Punjab Act I of 1898 sec. 2 (*10*).

4. (*1*) The Financial Commissioner shall be the Court of Wards for the Punjab.

(*2*) The Court of Wards may exercise all or any of the powers conferred on it by this Act either direct or through the Commissioner of the Division or the Deputy Commissioner of the District within the limits of which any ward may at any time reside or any part of the property of any ward may be situate, or through any other person whom it may at any time, in respect of any ward or the whole or any part of the property of any ward, appoint in that behalf.

(*3*) The Court of Wards may, with the sanction of the Local Government, from time to time, by general or special order, or by rule made under this Act, delegate any of its powers to any Commissioner or Deputy Commissioner or other person as aforesaid, and may at any time, with the like sanction, revoke any such delegation. — N.-W. P. Act III of 1899, sec. 7.

(*4*) The powers and authority by this Act vested in the Court of Wards shall be exercised by it subject to the control of the Local Government. — *Ibid*, sec. 5.

Power of Local Government to make order, in certain cases, directing the Court of Wards to assume superintendence of properties of land-holders. — *Ibid*, sec. 9.

5. (*1*) Any land-holder may apply to the Local Government to make an order directing that his property be placed under the superintendence of the Court of Wards, and, upon receiving any such application, the Local Government may, if it considers it expedient in the public interest so to do, make an order accordingly.

(*2*) When it appears to the Local Government that any land-holder is— — *Ibid*, sec. 8.

(*a*) by reason of being a female; or

(*b*) owing to any physical or mental defect or infirmity; or

(*c*) owing to his having been convicted of a non-bailable offence and to his vicious habits or bad character; or

(*d*) owing to his having entered upon a course of wasteful extravagance likely to dissipate his property;

incapable of managing or unfitted to manage his affairs, the Local Government may make an order directing that the property of such land-holder be placed under the superintendence of the Court of Wards:

Provided that such an order shall not be made on the ground stated in clause (*c*) or on the ground stated in clause (*d*) unless such land-holder belongs to a family of political or social importance and the Local Government is satisfied that it is desirable, on grounds of public policy or general interest, to make such order.

N.-W. P. Act III of 1899, sec. 10.

(*3*) Every order made by the Local Government under sub-section (*1*) or sub-section (*2*), shall be final and shall not be called in question in any Court of Law.

Ibid, sec. 8.

Power of Court of Wards, of its own motion, to assume superintendence.

6. When any land-holder is a minor or a person adjudged by a competent Court to be of unsound mind and incapable of managing his affairs, the Court of Wards may make an order assuming the superintendence of the *property*, or the person and property of such land-holder.

Ibid, sec 11

Court of Wards shall assume superintendence in cases in which an order is made under section 5 and may do so when Collector is appointed guardian under Act VIII of 1890.

7. (*1*) When, in respect of any land-holder, an order is made by the Local Government under sub-section (*1*) or sub-section (*2*) of section 5, the Court of Wards shall assume the superintendence of the property of such land-holder, and, may in its discretion also assume the superintendence of *his* person.

India Act VIII of 1890.

(*2*) When the Deputy Commissioner is appointed or declared to be guardian of the person or property, or both, of a minor, under the provisions of section 18 of the Guardian and Wards Act, 1890, he shall intimate the fact to the Court of Wards, and the Court of Wards may thereupon, in its discretion, either assume, or refrain from assuming, the superintendence of the person or property, or both (as the case may be), of such minor, and the provisions of this Act shall, if such superintendence be so assumed, apply to the person or property, or both (as the case may be), of such minor.

Properties of which there are more proprietors than one.

8. When there are two or more proprietors of any property and the shares of the several proprietors have not been separated off, and the Court of Wards, acting under section 6 or section 7, assumes the superintendence of the property of one or more, but not all, of such proprietors, the Court of Wards may assume the *superintendence* also of the shares of such joint-proprietor or joint-proprietors as is or are not disqualified, paying any such proprietor the surplus income accruing from his share of the property. *The superintendence assumed under this section shall extend only to the management of the share of the joint-proprietor in such joint property and shall not as regards such share include the power to sell or mortgage the same or any part thereof or to grant a lease thereof for a period exceeding 20 years or to create any charge thereon or interest therein.*

N.-W. P. Act III of 1899, sec. 14

Notification of assumption of superintendence.

9. Whenever the Court of Wards assumes the superintendence of the person or property of any person under any of the provisions of this Act, the order of assumption shall be notified in the Gazette, and shall specify the district the Deputy Commissioner of which shall be put in charge on behalf of the Court of Wards.

Ibid, sec. 15.

Operation and finality of orders made under sections 6, 7 and 8.

10. Every order made by the Court of Wards assuming, under sections 6, 7 and 8, respectively, the superintendence of the person or property, or both, of any person shall take effect from the date *fixed in this behalf in* the notification published under section 9, and shall be final and shall not be called in question in any Court of Law.

CHAPTER III.

INQUIRY AND ACTION PRECEDING ASSUMPTION OF SUPERINTENDENCE.

Inquiry by Deputy Commissioner in order to satisfy himself as to whether action should be taken under the Act.

11. (*1*) For the purpose of satisfying himself as to whether, in respect of any land-holder,—

(*a*) the Local Government should be moved to make an order under sub-section (*2*) of section 5, or

(*b*) the Court of Wards should be moved to make an order under section 6,

or for the purpose of making any report which may be called for in connection with any application of a land-holder under sub-section (*1*) of section 5, the Deputy Commissioner may make such inquiry into the circumstances of such land-holder as he may deem necessary, and, pending the taking of any such action, may issue such orders for the temporary custody and protection of the person or property, or both, of such land-holder, as he thinks fit.

(*2*) If the land-holder be a minor, the Deputy Commissioner may direct that the person, if any, then having the custody of the

minor, shall produce him, or cause him to be produced, at such place and time as the Deputy Commissioner appoints, and may make such order for the future custody of the minor, pending the orders of the Court of Wards, as he thinks proper.

(3) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (2) shall require her to be produced in accordance with the manners and customs of the country.

India Act XXXV of 1858, secs. 2, 3 and 9.

(4) If the land-holder is alleged to be or is of unsound mind, the Deputy Commissioner shall make application to a competent Court in view to an inquiry being made by such Court for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs.

India Act X of 1896, sec. 37.

Procedure in inquiries.

12. (1) For the purposes of every inquiry to be made, or direction to be given, in pursuance of any of the provisions of this Act, the Deputy Commissioner may exercise all or any of the powers of a Civil Court under the Code of Civil Procedure.

(2) For the purpose of protecting the property, or any part thereof, of any land-holder, pending an inquiry under sub-section (1) of section 11, the Deputy Commissioner may, subject to the direction and control of the Court of Wards, take possession thereof and appoint a manager and such care-takers in respect thereto as he may deem fit.

CHAPTER IV.

WARDSHIP AND ITS CONSEQUENCES.

N.-W. P. Act III of 1899, sec. 15.

Vesting of property of ward in the Court of Wards

13. (1) Upon the publication of a notification under section 9, in respect of the property of any *person*, the *whole* of such *property*, at the date of the notification, shall vest in the Court of Wards, and shall remain so vested until the Court of Wards shall, *by notification under section 50*, divest itself of the superintendence of the whole or any part thereof, or is otherwise divested of such superintendence in due course of law.

(2) All rights accruing to and property inherited by or vesting in any ward after the publication of a notification under section 9, and while the property of such ward is under the superintendence of the Court of Wards, shall vest in the Court of Wards:

Ibid, sec. 15 (4).

Provided that the Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which any ward may acquire, otherwise than by inheritance, subsequent to the date of the notification published under section 9.

Non-liability of land vested in the Court of Wards to sale for arrears of revenue.

14. No land under the superintendence of the Court of Wards *shall* be sold for arrears of revenue accruing while such land is under such superintendence.

Disabilities of wards.

15. No ward shall be competent—

(*a*) to transfer or create any charge on, or interest in, the whole or any part of his property which is under the superintendence of the Court of Wards, or to enter into any contract which may involve him in pecuniary liability:

Provided that nothing in this clause shall be deemed to affect the capacity of a ward to enter into a contract of marriage: but he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable;

(*b*) without the previous sanction, in writing, of the Court of Wards, (1) to adopt, or (2) to give permission to adopt, or (3) to dispose of any property by will.

Continuing disabilities in certain cases.

16. (1) When the property of any land-holder, in respect of whom an order has been made under sub-section (1) or on the last ground stated in sub-section (2) of section 5, is released from the superintendence of the Court of Wards, such land-holder shall not be competent, without the previous sanction of the Local Government, to alienate the whole or any part of the immoveable property which has been so released, in any way, or to create any charge upon any such property extending beyond his lifetime, and every transfer made or attempted to be made, or charge created or attempted to be created, in contravention of this provision, shall be void.

Infants Relief Act, 1874, (37 and 38 Vict., C. 62).

(2) No suit shall be brought whereby to charge any person upon any promise made after he has ceased to be a ward to pay any debt contracted during the period when he was a ward, or upon any ratification made after he has ceased to be a ward of any promise or contract made during the above period, whether there shall or shall not be any new consideration for such promise or ratification.

Power of the Court of Wards to act on behalf of wards and to deal with their properties.

N.-W. P. Act III of 1899, sec. 35.

17. (1) The Court of Wards may, at any time, mortgage or sell the whole or any part of *the property of a ward*, and may grant leases or farms of the whole or any part

of such property for such terms as it thinks fit, and may make such remissions of rental or other arrears and may generally and from time to time pass all such orders and do all such acts, not inconsistent with the provisions of this or any other enactment for the time being in force, as it may deem to be for the advantage of the ward or the benefit of *his* property.

(2) The Court of Wards may, for the purpose of raising a loan for the benefit of a ward or his property, hypothecate, with the consent of the Local Government, any *jágír*, *muáfi*, pension or assignment of land revenue held by the ward.

Ibid, sec. 52.

Deeds and other instruments.

18. (1) *All deeds, contracts or other instruments executed by the Court of Wards in the exercise of its powers of superintendence under this Act, shall be executed by the Court of Wards in its own name.*

(2) Covenants entered into by the Court of Wards *shall be binding on the Court of Wards only so long as the ward or the property affected by such covenants remains under its superintendence and only to the extent of such property; and such covenants shall be binding on the ward or on the person entitled to such property after the ward or the property or both (as the case may be) shall have been released from superintendence.*

(3) This section shall *also* apply to all deeds, contracts and other instruments executed before the commencement of this Act.

Cf. sec 424 of the Code of Civil Procedure, 1882; N.-W. P. Act III of 1899, sec. 48.

Notice of suit.

19. No suit relating to the person *of any ward* or *to* any property *under the superintendence of the Court of Wards* shall be instituted in any Civil or Revenue Court until the expiration of two months after notice in writing has been delivered to, or left at, the office of the Deputy Commissioner *of the district specified in the order of assumption in the notification under section 9*, stating the name and place of abode of the intending plaintiff, the cause of action, and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left:

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under section 9.

Suits to be in name of Court of Wards.

20. (1) No suit *(a) by or on behalf of a ward, or (b) affecting any property under the superintendence of the Court of Wards shall be brought without the authority of the Court of Wards or of such officer as it may appoint in that behalf, and in every such suit brought with such authority the Court of Wards shall be named as plaintiff.*

(2) In every suit against a ward or affecting property under the superintendence of Court of Wards, the Court of Wards shall be named as the defendant.

(3) Suits *brought* by or against any *Court of Wards* may be instituted and conducted or defended on behalf of the Court of Wards by the Deputy Commissioner *of the district specified in the order of assumption in the notification under section 9*, or by the manager or other person authorised, by general or special order or rule made under this Act, in that behalf, by the Court of Wards. Ibid, sec. 49.

CHAPTER V.

GENERAL PROVISIONS AS TO THE SUPERINTENDENCE OF THE PERSONS AND PROPERTIES OF WARDS.

Court of Wards assuming superintendence of the property to take possession thereof. Procedure as to property situate in other districts.

21. As soon as conveniently may be after the assumption, by the Court of Wards, of the superintendence of the property of any *person*, the *Deputy Commissioner of every district within which* any part of *such* property may be situated, or some person authorised, in writing, by him in this behalf, shall take possession of all *such property and all* accounts and papers *relating thereto, and* shall do all other acts and things which may be necessary to secure and protect the same and place it under proper custody and control.

Powers of Court of Wards as to superintendence and control. Audit of accounts and management of legal affairs of wards and properties.

22. The Court of Wards may from time to time direct such provision as it may think fit to be made in respect of the— N.-W. P. Act III of 1899, sec. 40.

(1) superintendence and supervision of the persons *of the wards* and properties under its superintendence;

(2) periodical *or special* audit, by an independent auditor, of the accounts of properties generally, or of any particular property, as it may think fit;

(3) management of the legal affairs of properties generally, or of any particular property, as it may think fit.

Power of Court of Wards to charge expenses against properties *under its superintendence.*

23. The Court of Wards may from time to time regulate the expenses to be incurred in the supervision, care and management of the wards and properties under its superintendence, and generally in carrying out all or any of the purposes of this Act, and may order that such expenses, or any of them, including all salaries, gratuities and leave allowances of establishments and all contingent and other expenses whatsoever which it shall consider requisite, be charged against *such* property generally, or against any one or more properties comprised in *such* property for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred.

N.-W. P. Act III of 1899, sec. 23; India Act XXVI of 1854.

Residence and education of wards.

24. (1) The Court of Wards may pass such orders as it thinks fit in respect of the residence of any ward whose person is for the time being under its superintendence, and, when he is a male minor, in respect of his education.

(2) The Court of Wards may from time to time require any such male minor ward to attend such tutor, class, school or college, for the purposes of education, as it thinks fit.

N.-W. P. Act III of 1899, sec. 22; India Act XXVI of 1854.

Allowance for ward and his family.

25. (1) The Court of Wards may from time to time determine what sums shall be allowed in respect of the expenses of any ward and of his family and dependents.

(2) The Court of Wards may from time to time determine what sums may be spent on the education of any minor ward whose person is for the time being under its superintendence.

CHAPTER VI.

ASCERTAINMENT AND LIQUIDATION OF LIABILITIES OF WARDS.

N.-W. P. Act III of 1899, sec. 16.

Notice to claimants.

26. (1) On the publication of a notification under section 9, the Deputy Commissioner of the District specified in the order of assumption or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf, shall publish in the Gazette a notice, in both the English and the Urdu languages, calling upon all persons having claims against the ward or *against the property under the superintendence of the Court of Wards* to notify the same in writing to such Deputy Commissioner within six months from the date of the publication of the notice.

(2) The notice may also be published at such places and in such other manner as the Court of Wards may, by general or special order, direct or by rule, made under this Act, prescribe.

(3) The Deputy Commissioner may, if he is satisfied that any claimant *had reasonable excuse for not submitting* his statement of claim within six months, receive his claim at any time after the expiry of the period aforesaid, but any claim so received shall, *unless the Deputy Commissioner otherwise directs and* notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid. C. P., Act XXIV of 1899, sec. 12 (2).

Presentation of claims.

27. (1) Every claimant shall, together with his statement of claim, present full particulars thereof. N.-W. P., Act III of 1899, sec. 16.

(2) Every document (including entries in books of account) on which the claimant founds his claim, or on which he relies in support thereof, shall be produced before the Deputy Commissioner with the statement of claim.

(3) Every such document shall be accompanied by a true copy of the same. The Deputy Commissioner, or such officer as he may appoint in that behalf, shall mark the original document for the purpose of identification, and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

Examination into, admission and rejection of, claims.

28. (1) The Deputy Commissioner shall, after such inquiry as he may consider necessary, decide, as to each claim made against any ward or property, in manner in section 26 and section 27 provided, whether such claim is, either in whole or in part, to be admitted or disallowed, and shall intimate, in writing, his decision in respect of each such claim to the claimant thereof. If such liabilities cannot be paid at once *the decision shall fix the interest (if any) to be paid thereon from the date of such decision to the date of the payment and discharge of such claim.* Ibid, sec. 17.

Bar of claims not duly notified.

29. Every debt or liability (other than debts due to, or liabilities incurred in favour of, the Government) to which any ward is subject, or with which *any property under the superintendence of the Court of Wards* or any part thereof is charged, and which is not duly notified to the *said* Deputy Commissioner within the time and in the manner hereinbefore prescribed, shall, subject to the provisions of section 7 and section 13 of the Indian Limitation Act, 1877, be deemed for all purposes and on all occasions, whether during the continuance of the superintendence of the Court of Wards or afterwards, to have been duly discharged: N.-W. P. Act III of 1890, sec. 18 India Act XX of 1896, sec. 14. India Act XV of 1877.

Provided that the provisions of this section shall not be deemed to extinguish any such debt or liability in any case in which the Court of Wards, after assuming the superin-

tendence of *such* property, releases the same from such superintendence without ascertaining and dealing with the liabilities thereof as in this chapter provided in that behalf, and that, in any such case, in computing the period of limitation applicable to any suit or application for the recovery of any such debt or the enforcement of any such liability, the time from the date of the notification of claim under section 26, to the date of the release of the property from the superintendence of the Court of Wards, shall be excluded.

N.-W. P. Act III of 1899, sec. 20.

Exclusion of documents not produced.

30. If any document in the possession or under the control of the claimant is not produced by him as required by section 27, such document shall not be admissible in evidence in any suit or proceeding thereafter brought *against a ward or as affecting any property under the superintendence of the Court of Wards* by the claimant, or by any person claiming under him.

Ibid, secs. 17 (3) and 19.

Decrees against wards or their properties and their execution.

31. (*1*) Nothing contained in this chapter shall be deemed to empower the Deputy Commissioner to disallow any claim, notified under section 26, which is based upon a decree passed by any competent Court, and any such decree may be proved by the production of a certified copy of the same accompanied by a certificate from the proper Court that such decree remains unsatisfied.

Ibid, sec. 19

(2) On the publication of a notice under section 26, all suits and all proceedings in execution of any decree against a ward or as affecting any property under the superintendence of the Court of Wards then pending in any Civil Court shall be stayed until the plaintiff or the decree-holder files a certificate that the claim has been notified in accordance with section 26.

(3) No fresh proceedings in execution of any decree against a ward or as affecting such property, other than a decree in respect of a transaction subsequent to the date of the notification under section 9, shall be instituted in, nor shall any attachment or other process in execution of such decree be issued by, any Civil Court, until the decree-holder files a certificate to the effect specified in clause (2).

Cf. N.-W. P. Act III of 1899, sec. 17.

Saving of right to sue in certain cases.

32. (*1*) Subject to the provisions of section 19* *and section 31*, nothing in this chapter shall be construed as preventing any claimant from bringing or prosecuting any suit, in any competent Court, in respect of any claim which has been duly notified, within the time and in the manner hereinbefore prescribed, to the Deputy Commissioner, and which has, whether in whole or in part, been disallowed by him, but no suit shall at any time be brought or be maintainable in respect of any claim which has not been so notified *or to set aside or modify the order of a Deputy Commissioner (if any) fixing a date for the payment of such claim or regulating the order in which claims against the ward or properties under the superintendence of the Court of Wards shall be paid.*

(2) In computing any period of limitation prescribed by the Indian Limitation Act, 1877, or section 230 of the Civil Procedure Code, every period during which proceedings have been stayed or temporarily barred by reasons of the provisions of this section or of section 31 shall be excluded.

India Act XV of 1877.
India Act XIV of 1882.

Appeal and revision.

33. No appeal shall lie from any decision given or order made by a Deputy Commissioner under this chapter, but nothing in this section shall be deemed in any way to limit or interfere with the power of the Court of Wards to revise any such decision or order.

Local Government may confer the powers of Deputy Commissioner on any person.

34. For the purposes of this chapter, the Local Government may, at any time or at any stage of any proceedings thereunder, invest any person with all or any of the powers of a Deputy Commissioner.

Cf. N.-W. P. Act III of 1899, sec. 21.

CHAPTER VII.

GUARDIANS AND MANAGERS.

Appointment, removal and control of guardians and tutors.

35. (*1*) The Court of Wards may from time to time appoint guardians for the care of the persons of such wards as are minors or of unsound mind, or are suffering from any physical or mental defect or infirmity, or are females and unmarried, and may control and remove such guardians, and no appointment of a guardian for any ward shall be valid unless and until it has been confirmed by the Court of Wards. *Ibid*, sec. 24.

(*2*) In appointing a guardian under this section, the Court of Wards shall be guided, as far as may be, by the provisions of section 17 of the Guardian and Wards Act, 1890, *and if a ward leaves or is removed from the custody of a guardian appointed under this section, the Deputy Commissioner of the District specified in the notification issued under section 9 may exercise the powers conferred by section 25 of the said Act on a Court as defined in that Act.*

India Act VIII of 1890.

(*3*) The Court of Wards may appoint any person to be the tutor of any minor male ward and may control and remove such tutor. Every tutor so appointed shall discharge such duties and regulate his conduct in such manner as the Court of Wards may from time to time direct.

No person who can succeed to ward to be appointed guardian.

36. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian; but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

N.-W. P., Act III of 1899, sec. 25.

Duties and responsibilities of guardians.

37. A guardian appointed under this chapter shall be charged with the custody of the ward, and shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made, under this Act, in that behalf, make suitable provision for his maintenance, health and, if he be a minor, his education and such other matters as the personal law to which the ward is subject, requires and shall—

(*a*) give such security, if any, as the Court of Wards thinks fit for the due performance of his duty;

(*b*) submit such accounts as the Court of Wards may direct;

(*c*) pay the balances due from him thereon;

(*d*) continue liable to account to the Court of Wards, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;

(*e*) apply for the sanction of the Court of Wards to any act which may involve expense not previously sanctioned by it; and

(*f*) be entitled to such salary or allowance, to be paid out of the proceeds of the property of the ward, as the Court of Wards thinks fit, in respect of the execution of his duties as such.

Ibid, sec. 26.

Appointment, control and removal of managers.

38. The Court of Wards may appoint *one or more* managers for any properties under its superintendence and may control and remove such managers.

Ibid, sec. 27.

Powers of managers.

39. A manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made, under this Act, in that behalf, have power to collect the rents of the lands p[la]ced under his charge as well as all other money due to the ward *or person* whose property he manages, and to grant receipts therefor; and he may, subject to the same supervision, direction and rules (if any), grant and renew leases and farms, and do all such lawful acts as he may be generally or specially authorised by the Court of Wards to do for the good management of the property.

N.-W. P. Act III of 1899, sec. 28.

Duties and responsibilities of managers.

40. Every manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and to the rules (if any) made, under this Act, in that behalf, manage the property *or properties* placed under his charge diligently and faithfully, and he shall—

(*a*) give such security, if any, as the Court of Wards thinks fit, duly to account for what he may receive in respect of the rents and profits *and other income* of the property under his charge;

(*b*) keep accounts in such form and submit them at such times as the Court of Wards may direct;

(*c*) deal with all money received by him in such manner as the Court of Wards may direct;

(*d*) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by it;

(*e*) be entitled to such salary or allowance, to be paid out of the proceeds of *such* property, as the Court of Wards thinks fit, in respect of the execution of his duties;

(*f*) be responsible for any loss occasioned to the property by his negligence or wilful default; and

(*g*) continue liable to account to the Court of Wards after he has ceased to be manager for his receipts and disbursements during the period of his management.

Ibid, sec. 29.

Termination of appointment of guardian or manager.

41. The appointment of every guardian or manager appointed under this chapter, shall terminate on the Court of Wards ceasing to exercise superintendence of the person or property in respect of whom or which such guardian or manager, as the case may be, has been appointed.

Ibid, secs. 30 and 31.

Guardians and managers to be deemed to be public servants and managers and certain guardians to be deemed to be public accountants.

42. (1) Every guardian and manager *appointed under this chapter* shall be deemed to be a 'public servant' within the meaning of section 21 of the Indian Penal Code and for the purposes of that Code. India Act XLV of 1860.

(2) Every *such* manager shall be deemed to be a 'public accountant' within the meaning of the Public Accountants Act, 1850, and every *such* guardian shall be deemed to be a 'public accountant' within the meaning and for the purposes of sections 3 to 5 of the Public Accountants Act, 1850. India Act XII of 1850. *Ibid.*

India Act XII of 1850. N.-W. P. Act III of 1899, sec. 32.

(3) In the definition of 'legal remuneration' contained in section 161 of the Indian Penal Code, the word 'Government' shall, for the purposes of this section, be deemed to include the Court of Wards.

Deputy Commissioner when to discharge the duties of guardian or manager.

43. If no *such* guardian or manager is appointed by the Court of Wards, the Deputy Commissioner *of the District specified in the order of assumption in the notification under section 9* or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf, shall be competent to do anything that might be lawfully done by a guardian of the person or a manager of the property *appointed under this chapter.*

CHAPTER VIII.

RELEASE OF PERSONS AND PROPERTIES FROM SUPERINTENDENCE.

Ibid, sec 41.

Power to release from superintendence.

44. The Court of Wards may, at any time, release any person or property, or both, from its superintendence :

Provided that the property of a land-holder who has been made a ward in accordance with an order made under section 5, shall not be released from the superintendence of the Court of Wards without the previous sanction of the Local Government :

Provided, further, that persons or property under the charge of the Court of Wards in accordance with the provisions of sub-section (2) of section 7, shall not be released without the concurrence of the Court which appointed or declared the Deputy Commissioner to be guardian of the person or property, or both, of the person concerned, under the Guardian and Wards Act, 1890.

India Act VIII of 1890.

Retention of superintendence of property until discharge of debts.

45. *(1)* Whenever a ward dies or ceases to be under any legal incapacity, and his property is, at the time of his death or cessation of incapacity, still encumbered with debts and liabilities, the Court of Wards may either release such property or, *with the sanction of the Local Government*, retain it *or any part thereof* under its superintendence until such debts and liabilities have been discharged.

(2) In any case provided for in sub section (1) the Court of Wards may together with the property of any such ward also retain, until the said debts and liabilities have been discharged, the property of which it has assumed the superintendence under section 8.

Retention of superintendence where there are more proprietors than one.

46. If, in the case of any property, there are more proprietors than one, the Court of Wards may retain the whole property under its superintendence if one or more of the proprietors remain wards, although other or others may have ceased to be under any legal incapacity : N.-W. P. Act III of 1899, sec. 42 (1).

Provided that in such cases *a proprietor who has ceased to be disqualified shall not, after the cessation of such disqualification, be deemed to be a ward for the purposes of this Act and the Court of Wards shall pay to such proprietor* the surplus income accruing from *his* share of the joint property.

Appointment of guardian on release of minor.

47. (1) When the Court of Wards decides to release from its superintendence the person or property, or both, of any minor, it may, before such release, by an order in writing appoint any person to be the guardian of the person or property, or both, of such minor. Ibid, sec. 43.

(2) Such appointment shall take effect from the date of such release.

(3) In appointing a guardian under this section the Court of Wards shall be guided by the provisions of section 17 of the Guardian and Wards Act, 1890, *and in every such case the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9 shall have the powers conferred upon a Deputy Commissioner under section 35 (2).* India Act VIII of 1890.

(4) Every such guardian shall have and be subject to the same rights, duties and liabilities as if he had been appointed under the Guardian and Wards Act, 1890. Ibid.

Disposal of property after the death of a person of whose property the Court of Wards has assumed superintendence.

48. Whenever, in the event of the death *of any person of whose property the Court of Wards has assumed superintendence,* the succession to his property, or any part thereof, is unclaimed or disputed, the Court of Wards may either direct that the property, or part thereof, be made over to any person entitled to or claiming the same, or may institute a suit of interpleader against the several claimants, or may retain the superintendence thereof until a claimant has, in due course of law, established his title thereto in a competent Court. N.-W. P. Act III of 1899, sec. 44.

Delivery of documents and accounts on release of property.

49. Whenever the Court of Wards releases the property of any *person* from its superintendence, it shall deliver to such *person* all documents of title and all papers and accounts (other than Government records) relating to such property. Ibid, sec. 45.

N.-W. P. Act III of 1899, sec. 46.

Notification as to release from superintendence.

50. Whenever the Court of Wards releases any person or property from its superintendence, the fact of such release shall be notified in the Gazette, and such release shall take effect from the date *fixed in this behalf in* the notification.

Recovery of expenses.

51. Any expense incurred by the Court of Wards on account of any property under its superintendence may, after the release of such property, be recovered as an arrear of land-revenue due in respect of such property or any part thereof.

CHAPTER IX.

MISCELLANEOUS PROVISIONS.

C. P. Act XXIV of 1899, sec. 39.

Bar of suits and proceedings.

52. (*1*) No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act.

(*2*) No suit shall be brought against any *Officer of Government or any* guardian, manager or servant appointed by and discharging his duties under a Court of Wards for anything done by him in good faith under this Act.

Investigations into matters under Chapters VI and VII to be considered judicial proceedings.

53. Every investigation conducted by a Deputy Commissioner with reference to any claim preferred before him under Chapter VI or Chapter VII or to any matter connected with any such claim shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

India Act XX of 1896, sec. 36.

Power to make rules.

N.W. P. Act III of 1899, sec. 54.

54. The Court of Wards may, with the previous sanction of the Local Government, make rules consistent with this Act regulating all or any of the following matters, namely,—

(*a*) the management of properties or of all or any property under the superintendence of the Court of Wards;

(*b*) the procedure to be observed and the powers to be exercised by all or any persons in all or any proceedings under this Act; and

(*c*) generally for the purpose of giving effect to all or any of the provisions of this Act.

SCHEDULE.

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
XXVI of 1854	Education of male minors subject to the superintendence of the Court of Wards.	The whole so far as it applies to the Punjab.
IV of 1872 ...	The Punjab Laws Act, 1872.	Sections 34 to 38, inclusive.
XII of 1887 ...	Amendment of the Punjab Laws Act, 1872.	Sections 3 and 4.

H. A. B. RATTIGAN,

Secretary, Legislative Council.

Punjab Government Press, Lahore—14-5-03—713.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MAY 21, 1903.

PART V.

Bill was introduced in the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations.

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[Second publication.]

THE following Bill was introduced in the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations on the 11th May 1903:—

Bill No. 1 of 1903.

A Bill to amend the law relating to the limitation of suits for the recovery of money due on account of money lent or advanced, or on an account stated, or in respect of goods supplied.

WHEREAS it is expedient to amend the law relating to the limitation of suits for the recovery of money due on account of money lent or advanced, or on an account stated, or in respect of goods supplied; it is hereby enacted as follows:—

Short title.

1. (1) This Act may be called the Punjab Loans Limitation Act, 1903.

Local extent.

(2) It extends to the Province of the Punjab.

Definition.

2. For the purposes of this Act the expression "instituted" shall have the meaning assigned to it in the explanation to section 4 of the Indian Limitation Act, 1877. India Act XV of 1877.

Dismissal of suits of the description specified in the Act if instituted after the period of limitation therein prescribed has expired.

3. Subject to the provisions contained in sections 5 to 25 (inclusive) of the Indian Limitation Act, 1877, and notwithstanding anything in the second schedule of the same Act to the contrary, every suit of the description specified in the schedule hereto annexed shall, if instituted after the period of limitation therein prescribed, be dismissed, although limitation has not been set up as a defence. India Act XV of 1877.

Right to sue barred not to be revived.

4. Nothing herein contained shall be deemed to revive any right to sue barred under the Indian Limitation Act, 1877. India Act XV of 1877.

THE SCHEDULE.

Description of suit.	Period of limitation.	Time from which period begins to run.
1. Suits of the description specified in Articles 52, 53, 57, 58, 59, 63, 64, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 80 and 85 of the second schedule of the Indian Limitation Act, 1877, if based on unregistered contracts.	6 years ...	The periods respectively specified in the said articles.

H. A. B. RATTIGAN, C. L. TUPPER,

Secretary, Legislative Council, Punjab. *Member.*

STATEMENT OF OBJECTS AND REASONS.

THE object of the present Bill is to extend the period of limitation from three to six years for suits of the description specified in the schedule. As the law stands at present, a suit for recovery of money due on account of a loan or an advance or in respect of an account stated or for goods supplied must, if the agreement upon which it is based has not been registered, in the ordinary course be instituted within three years of the dates respectively specified in the articles of the Indian Limitation Act, 1877, referred to in the schedule to the Bill, whereas in all such cases, if the agreement in question has been registered, a suit of the kind mentioned may be brought within six years of the said date. It these particular instances there seems to be no good reason for this distinction, while on the other hand it is considered that the period of three years allowed in the case of unregistered agreements is unduly short, and might advantageously be considerably extended. It is well known that a creditor, who would otherwise be quite content to give further time to his debtor, is often forced to institute legal proceedings simply in order to prevent his claim from becoming barred by limitation, with the result that litigation and its necessary consequence, bad feeling between the parties, are unnecessarily engendered. It is with a view to avoid such unfortunate results and to encourage creditors to allow their debtors further time for payment that the present Bill has been drafted, and it is hoped that if its provisions become law, there will be a decrease of litigation.

A measure such as the present Bill has been frequently proposed in the interests alike of indebted peasant proprietors and of the village money-lenders who are often forced by the existing law to put them into Court. But it is thought that all classes of the community may very properly have the benefit of what is believed to be a salutary change in the law; which moreover possesses the commercial advantage of assimilating the rule to be observed here with that which is already prescribed by the law of England.

H. A. B. RATTIGAN, C. L. TUPPER,

Secretary, Legislative Council, Punjab. *Member.*

Proceedings of the Council of the Lieutenant-Governor of the Punjab, assembled for the purpose of making Laws and Regulations.

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of the Punjab, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Act, 1861 *and* 1892 *(*24 *and* 25 *Vict., Cap.* 67, *and* 55 *and* 56 *Vict., Cap.* 14*).*

THE Council met at the Council Chamber, Government House, Lahore, on Monday, the 11th May 1903.

PRESENT:

His Honour Sir CHARLES MONTGOMERY RIVAZ, K.C.S.I., Lieutenant-Governor of the Punjab, *presiding*.

The Hon'ble Kanwar Sir HARNAM SINGH, K.C.I.E.

The Hon'ble Mr. D. P. MASSON, C.I.E.

The Hon'ble Colonel J. B. HUTCHINSON.

The Hon'ble Mr. J. WILSON, C.S.I., M.A., I.C.S.

The Hon'ble Rai Bahadur MADAN GOPAL, M.A. Bar.-at-Law.

The Hon'ble Sir LEWIS TUPPER, K C.I.E., C.S.I., I.C.S.

The Hon'ble Mr. ALEXANDER ANDERSON, C.I.E., I.C.S.

PUNJAB COURT OF WARDS BILL.

The Hon'ble SIR LEWIS TUPPER presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Court of Wards in the Punjab.

The Hon'ble SIR LEWIS TUPPER moved that the Report of the Select Committee be taken into consideration. He said:—"When I introduced this Bill on the 10th November last I gave a full account of its origin and of its history up to date; and I will therefore limit my present remarks to subsequent proceedings.

"The Bill was circulated for the opinions of selected officers, and I am glad to say that it was well received. Several officers, including two Commissioners, simply expressed full concurrence in the Bill and had no amendments to suggest. The criticisms of others were directed almost exclusively to matters of detail, and in the correspondence no fresh question was raised of any importance or difficulty. I am sorry to say that the opinions of three of the Hon'ble Judges of the Chief Court and of two Divisional Judges were received too late for consideration by the Select Committee; but this is a point to which I shall have to refer again at a later stage of to-day's proceedings. As regards the other opinions I may say that the objects of the Bill being admitted, the few criticisms which we received amount to suggestions for the better attainment of those objects.

"It follows that several of the amendments which we have made in the Bill are self-explanatory. Putting these aside, our amendments fall into two classes: first, we have distinguished throughout the Bill between wards and persons whose property is under the superintendence of the Court of Wards, though they are not themselves disqualified; and secondly, we have endeavoured to make Chapter VI, relating to the ascertainment and liquidation of the liabilities of wards, a clearer and more consistent enactment than it was in the previous draft of the measure.

"As regards amendments of the first class, we may, under this Bill, undertake the superintendence or management of the whole of a joint-estate when one or more of the joint-proprietors are not themselves disqualified. Similarly, when a disqualification ceases by a minor coming of age or otherwise, we may nevertheless retain the superintendence or management of the whole of the joint-estate, notwithstanding this alteration in the circumstances. This being so, it is natural to ask whether a person who has legally ceased to be disqualified is nevertheless to remain subject to the personal disqualifications of a ward? In substance that question had already been answered by the Government of India in the negative when a previous draft of the Bill was under consideration. They distinguished between legal superintendence and management, and pointed out that where the joint-proprietor was not disqualified and his property was taken under the Court of Wards merely because he was joint with a disqualified person, a power of management only was required Both in this case and where a share of joint-property is retained after one or more of the wards have ceased to be disqualified, the person who is not disqualified should clearly receive the surplus income of his share; and it is obvious that we should not assume or retain the guardianship of his person. In the Bill as circulated an attempt had been made to give effect to these views, but some of the criticisms received showed that it was not entirely successful. We have now so revised the Bill throughout as to make certain that it does all that is necessary in this behalf. Where the superintendence is assumed it will extend only to management and that will not include power of sale or mortgage. Where it is continued the authority of the Court of Wards must necessarily be wider, but still it has been strictly limited in the sense required.

"The case of Chapter VI is somewhat similar. There is no change as regards the general intention of the chapter; but I confess that I think it would have received more close attention at an earlier stage of the Bill had it not been somewhat thrown into the shade by the very important proposal of the Local Government to enact a Chapter VII, which has no place in the measure before us, having been disallowed by the Government of India. The rejected Chapter VII dealt with incumbered estates and gave the Court of Wards an insolvency jurisdiction. It was limited to wards belonging to families of political or social importance, and in such cases gave power to prepare a scheme of liquidation, scaling down the debts, which would have been binding on all creditors, suits and proceedings against the ward being barred. Had this chapter been carried, Chapter VI would have had a very minor importance. With the rejection of the old Chapter VII the importance of Chapter VI is much increased.

"In the Bill as circulated Chapter VI was drawn from several sources— the United Provinces Act, the Central Provinces Act, and the Sindh Incumbered Estates Act. The provision taken from the last named enactment as to ranking debts in order of proposed payment seemed to us to be especially embarrassing and indeed impracticable where there would be no authority to deal finally with the debts themselves; and it appeared further that one or two of the provisions of the chapter were not altogether consistent with each other.

"These considerations led us to examine it anew, and though the changes made are not great they are, we think, sufficient to make the law in this behalf consistent and workable.

"The scheme is really a simple one. When superintendence is assumed the Deputy Commissioner calls on creditors to notify their claims. Subject to reasonable excuses and exceptions the claim of a creditor who does not notify it within six months is extinguished. The Deputy Commissioner may not disallow a claim founded on a decree, but he may disallow any other claim in whole or in part. If the Deputy Commissioner disallows a claim in whole or part the claimant may sue to enforce it. The order of a Deputy Commissioner disallowing interest as agreed upon would be considered to be the disallowance of a part of the claim. Until the creditor has duly notified his claim to the Deputy Commissioner and can produce a certificate of having done so he is debarred from proceedings in Court against the ward or property under superintendence. The periods during which proceedings are thus barred are excluded in computing periods of limitation. I think that these provisions, which are largely due to the care and sagacity of my Hon'ble Friend, MR. ALEX. ANDERSON, will work justly and smoothly, and I shall be glad to see them pass into law.

"I have only to add that when the Government of India disallowed the original Chapter VII they further observed that if any special procedure for dealing with incumbered estates were really required in the Punjab it should form the subject of a separate enactment and should not be included in a Court of Wards Act.

"With these remarks I beg to move that the Report of the Select Committee be taken into consideration."

The Hon'ble MR. MADAN GOPAL in supporting the motion said:—"In all countries and systems of law the Ruling Power is recognised to be the supreme guardian of minors, lunatics and idiots—that power being vested in the courts of law and capable of being exercised in the case of *every* minor or lunatic. But there are certain minors, lunatics and persons similarly situated who by reason of their circumstances are peculiarly under the protection of the State, and the institution of Courts of Wards has been devised for the purpose of vesting in Revenue and Executive authorities the power to protect the properties and persons of such disqualified individuals. The peculiarity that claims this special protection is the possession and proprietorship of landed property. Critics of Government measures usually characterise the legislation which aims at regulating measures for such protection as grandmotherly, and they specially call in question the wisdom of protecting prodigal or spendthrift proprietors, who are one of the many objects of the paternal solicitude of Government. Their objections usually are that it is useless to save people from the consequences of their own imprudence, that to protect them has the effect of offering a premium to the continuance of vicious habits which led to embarrassment, that it is to the interest of society that property should pass from the hands of imprudent proprietors to those who are likely to be better able to take care of it, that the system of keeping the prodigal under tutelage is unduly interfering with individual liberty and with the vested rights of creditors.*

"But these objections are outweighed by political and socialistic considerations.† England has always been the country where individual liberty has been respected more than anywhere else, but during the last 30 years the tendency of legislation even there has been to interfere with individual liberty in a way which would have made Mill and philosophers of his stamp exclaim in surprise. Modern science and the current of modern thought have led legislators more and more to consider the danger to society from giving to the individual absolute liberty. If therefore danger arises to the State or to the individual from not restraining individual liberty the State ought to be prepared to do so. The prodigal is not looked upon as an individual standing by

* A writer in the Madras Law Journal.

† Law Quarterly Review.

himself. His property is considered as not entirely his own, but also belonging to his family and relations, whom it is considered unwise to expose to want because of his recklessness. The intention is to protect property which is really common property from the extravagance of the person who actually has possession ; in other words, to protect the rights of innocent third parties. Looking to old communities, the preservation of the family estate was dear to the heart of a Roman lawyer. Property which a member of the Gens had was inalienable and hereditary, and all the members of the Gens had an interest in it. Similar notions prevail in our Customary Law. Here also anything which tends to dissipate such property is viewed with disfavour. The State, interested as it is in the preservation of the family and the tribe, cannot admit that the rights of property consist in the right of an owner to ruin his family in satisfying his miserable whims and fancies or shameful caprices. Government considers it inexpedient to let the class of great landlords and scions of aristocracy die out and their capital dissipated in unprofitable expense. They think that there are substantial advantages which accrue to the State from the maintenance of a wealthy landlord class and grave evils likely to result from their disappearance. The landed aristocracy is the class most interested in the stability of Government and in the maintenance of peace and order. Their authority and influence are factors which prevent any violent upheaval of the existing order of things. This was experienced in Oudh in the Mutiny of 1857 and led to Lord Canning's recognition of the status and position of the Oudh Taluqdars. Apart from this the hereditary feelings of attachment between the landlord and the ryot are likely to bring about a more generous and liberal treatment of the latter than is likely to be accorded by persons who own no ancient ties with peasants. The interest of the latter is to take the maximum out of the land, no money is spent in permanent improvements, and the tenants have a landlord who does not care about their welfare. The spendthrift will thus have caused injury and suffering to a large number of people if he were allowed full liberty to alienate, and the State cannot look upon such misery with disregard. Besides, a *spendthrift is a moral danger to all persons who come into contact with him, and public order suffers from his presence.* There are numerous other reasons why a wealthy landlord class can prove itself useful to the public, and these are the considerations which have led to the relief of incumbered estates and the inclusion of spendthrifts in the legislation connected with minors and lunatics. In fact, a prodigal is considered to be akin to an insane person, and in Roman Law the State interfered with his property on the same grounds as it protected the estate of minors and lunatics. This was as early as the law of the Twelve Tables, where agnates and men of his Gens were given power over him and his money.

"In addition to spendthrifts, from very early times protection has been accorded to females. In Roman as in Hindu Law, a woman never had legal independence. If she was not under *potestas*, she was under *manus* or *tutela*: women were never their own masters. The aged and the infirm are another class calling for protection. These then are the various classes for whom the present measure is intended. It has my hearty support so far as it goes, but I wish it had gone a little further. It provides for a land-owner applying that his property be taken under the superintendence of the Court. Now unless there be a command from above, *i.e.*, from the Commissioner or his Deputy, the cases must be very rare indeed where a man will come forward and confess that he is unfit and that he wants protection. Those harpies who surround a rich land-owner will never allow him to realize the truth of his position, but will on the contrary glorify his capability and the possibilities that are within his reach. As the object is to save estates, I think if a provision had been inserted enabling the wife, children or other relations of a proprietor also to apply that his estate be taken under superintendence, it would have proved salutary. Such provisions find place in the laws of other countries.

"But as the Bill is framed there is no bar to their doing so and to the Court considering their application, though no explicit provision is made on the point.

"Another point which I would have liked to find inserted in this Bill is a provision similar to Sections 39 and 40 of the Madras Court of Wards Act, 1899. These sections provide that if the property of the ward, whole or part, be in the possession of a mortgagee or lessee, the Collector may, as representative of the Court, require such mortgagee or lessee to deliver up possession of the same at the end of the then current year, and if such incumbrancer refuses or neglects to obey such order, the Collector may without resorting to the Civil Court enter upon the property and summarily evict therefrom the said incumbrancer, and in the case of a lease, if the Collector finds that the consideration paid was inadequate, call upon the lessee to pay such additional consideration as he considers reasonable ; the lease being determined if such additional consideration be not paid. In either case, it being left to the dissatisfied party to resort to the Civil Court for establishment of his rights, but the position being altered, he being the claimant or plaintiff and not defendant as he should ordinarily be and the onus being on him, the Court of Wards enjoying the benefit of being defendant, *beati possidentis.*

"I have no doubt this would appear to lawyers as a very revolutionary proposal coming from one of their cloth, but my excuse is my sad experience of the way in which prodigals are taken advantage of by unscrupulous persons who deal with them. I have at present in my hands a case in which the zamindar was lamentably weak and entirely in the hands and under the persuation of certain black-guardly servants who made him drunk and sign any documents at their sweet pleasure without his receiving the slightest consideration. Now in cases like these, I feel justified in saying that a paternal Government ought to, and is bound to, come to the rescue of the weak and the oppressed, and it is not at all wrong that the oppressor should first be disseized of the property fraudulently obtained and then to seek remedy if he so feels inclined, the onus of showing the transaction to be fair and above board being on him. Inasmuch as this provision finds place in the Court of Wards Act of Madras, I suggested its inclusion in this Bill. The Hon'ble the Member in charge and His Honour the President have however pointed out that if this were done, the passing of the Bill would be considerably delayed, as the amended Bill would have to be sent up to the Government of India for approval, and it is very desirable that the present Bill should be passed with as little delay as practicable. As I have been assured that the suggestion will be noted and that the Financial Commissioner will call for opinions on the same, I am content with simply mentioning it here instead of moving an amendment as I originally intended doing.

"There are one or two provisions to which also I would like to draw attention. The power to retain superintendence of property of the ward after his death or ceasing to be disqualified where all the debts have not been paid off is very essential, as otherwise the whole scheme of liquidation would become infructuous. Similarly, where there are several wards and one or more become competent, while others remain disqualified, the interests of the latter will be jeopardised were the Court to relinquish charge altogether. This power has therefore been retained, the exempted or qualified ward retaining the same power over his share of the income as if he were originally not disqualified. A provision taken from the English Act for the relief of infants has also my hearty support. It provides that no suit shall be brought whereby to charge any person upon any promise made after he has ceased to be a ward to pay any debt contracted during infancy, or upon any ratification made after attaining majority of a promise made during infancy. The position of a person who has just attained majority and for some time after is such that he is entirely under the thumb and influence of designing persons, and a continuance of his

disqualification is absolutely necessary. Another provision proposes to enact that orders made by the Court of Wards assuming superintendence shall be final and shall not be called in question in any Court of Law. This means that the decision as to who is and who is not a disqualified person whose estate may be taken under superintendence will rest with the Executive authorities and not with Courts. In European countries the rule is that no body can be declared a ward of Court unless the judiciary have first decided on admissible evidence that he is disqualified. The circumstances of this country are, however, so different that a similar provision would work havoc here. There are no family councils competent and ready to move the Courts. Again, wives and children, although unhappily affected by extravagance, may not have the means or be in the position of meeting the spendthrift on an equal footing so far as judicial inquiry and the expenses attendant thereon go, and while the inquiry is going on, the spendthrift may squander the whole of the property, the dilatory work of the Civil Courts and the right of appeal and revision affording him sufficient time in which to do so. Again, many respectable people living in the neighbourhood or acquainted with the doings of the spendthrift may be willing to give information if sought, but reluctant to face a cross-examiner who may brow beat and insult. These and many other considerations of a similar character make our position in this country different to Europe and necessitate that the power to take over superintendence should vest in the executive without question. It is not at all likely that they will ever abuse their position or authority; indeed in Provinces where they have enjoyed this power for long no case of abuse of authority has ever come to notice. I would now beg leave to conclude, trusting that this measure will prove of incalculable benefit to the landed class and a source of strength and satisfaction to the State."

The Hon'ble SIR LEWIS TUPPER said:—"I have listened with great attention to the able and learned address of my Hon'ble Friend MR. MADAN GOPAL, and I may be allowed to say that I was specially interested in his remarks on the analogy between the early Roman Law and our Hindu and Customary Law and some of the provisions that we are about to enact. There are, however, in the body of his speech only two points on which I need specially remark. First, in regard to the suggestion that the Bill might have provided for applications by members of a family praying that a prodigal member should be brought under the superintendence of the Court of Wards, my Hon'ble Friend has himself supplied the answer. There is nothing in the Bill to prevent the wives or other relatives from petitioning, and if they do, no doubt enquiry will be made and proper action taken. The Bill gives the Local Government very wide powers of dealing with cases where a person is disqualified without any application of his own—powers quite as wide, I think, as any Government would care to assume. The Local Government can cause the property of a landholder to be placed under the superintendence of the Court of Wards when it finds that he is incapable of managing or unfitted to manage his affairs 'owing to any physical or mental defect or infirmity' or 'owing to his having entered on a course of wasteful extravagance likely to dissipate his property.' The mental defect here in view is, I would point out, something different from and less than unsoundness of mind, for which provision is made in another section; and as my Hon'ble Friend has himself pointed out, under Section 10 of the Bill, the order of the Court of Wards assuming superintendence is final and cannot be called in question in any Court of Law. While I am entirely with my Hon'ble Friend in desiring the preservation of our prominent families, I believe that these provisions will be found in practice quite sufficient to meet the cases which he has in view.

"As to his other point that we might have adopted the Madras provisions by taking power to eject a mortgagee in possession and to deal with lessees in the manner proposed, I am sorry that the matter was not brought to notice at an earlier stage of the measure. It deserves full consideration, and personally I

should have been in favour of the proposal relating to the mortgagee, seeing that I had myself proposed the far more drastic Chapter VII, since discarded, which gave insolvency powers to the Court of Wards. That was the difficulty however. The Government of India had rejected that chapter, and could we insert the somewhat strong provisions affecting the rights of third parties which are favoured by my Hon'ble Friend without further reference to that authority? I thought not, and the Select Committee agreed with me; and we also agreed that, although MR. MADAN GOPAL'S proposed provisions might be valuable, it was not worth while to delay the Bill in order to obtain them. The Bill is really very urgently required, and these provisions can wait for some later opportunity. I had, however, no hesitation in giving the promise to which the Hon'ble MR. MADAN GOPAL has referred, and I will certainly call attention to the matter in connection with the working of the Bill, so that we may accumulate experience to show whether such provisions as he suggests should be enacted for the Punjab."

The motion was put and agreed to.

The Hon'ble SIR LEWIS TUPPER:—"Before moving that the Bill be passed as amended by the Select Committee there is one small amendment I should like to propose if no objection is raised to my doing so at this late stage and without notice to Members.

"I mentioned that the opinions of certain Judicial Officers arrived too late for consideration by the Select Committee. As a fact I got them only on Saturday morning, but I have myself considered them, and I am able to state that generally the criticisms which they contain relate either to matters of principle already settled between the Local and Supreme Governments before the Bill was introduced, or to matters of detail either actually considered by the Select Committee or substantially disposed of in its proceedings. There is, however, one small exception. Clause 47 (*1*) of the Bill is to the effect that when the Court of Wards releases a minor from its superintendence it may appoint a guardian for him or his property. Section 49, however, says that whenever the Court of Wards releases the property of any person from its superintendence, it shall deliver to such person all documents of title and all papers and accounts (other than Government records) relating to such property. In substance Mr. D. C. Johnstone, Divisional Judge of Siálkot, asked us—'Do you mean in the case above set out to make over these important documents to the minor?' Of course the answer is no, and I therefore propose as an amendment that in clause 49 after the words 'it shall deliver to such person' we insert the words 'or if it has appointed a guardian under section 47 (*1*), to such guardian.' This will, I think, sufficiently meet the inconsistency pointed out by the Divisional Judge."

No objection being raised the Hon'ble SIR LEWIS TUPPER moved the following amendment:—

> "That after the word '***person***' in the 5th line of clause 49 the words '***or if it has appointed a guardian under sub-section*** (*1*) ***of section*** 47, ***to such guardian***' be inserted."

The motion was put and agreed to.

The Hon'ble SIR LEWIS TUPPER moved that the Bill as amended by the Select Committee, and as now amended, be passed.

The Hon'ble MR. WILSON, in supporting the motion, said:—"Having had some experience as a Court of Wards, I wish to say a few words in support of the motion. The last thirty years have shown that the few sections in the Punjab Laws Act, under the authority of which the Court of Wards has hitherto carried on its beneficent work, are not sufficient for present-day needs, and the time has come for the enactment of a measure such as that now before the Council defining more clearly the powers and duties of the Court, both as regards its wards and as regards other persons who have relations towards them and their properties. This Bill embodies the results of our Punjab experience, and has also benefited from the experience gained in other Provinces, and will be found a much more efficient instrument than the law it supersedes.

"Among the more useful improvements introduced by this Bill I may mention the provisions making it possible for the Local Government to place the property of any landholder under the Court of Wards, without his having to make, in so many words, the humiliating admission that he is unfitted to manage his estate, and to place under the Court the property of a landholder who is dissipating the family estate by a course of wasteful extravagance; the authority now given to the Court of Wards to assume the superintendence of a joint undivided property in which a minor owns a share; the procedure prescribed under which the liabilities of a ward may be quickly ascertained and settled; the clear definition of the disabilities of a ward, more especially as regards creating a charge on his estate; and the definition of the powers and duties of guardians and managers.

"I believe that the large land-owning families of the Province look upon the Court of Wards as one of the best means of safeguarding their permanent interests, and will welcome this Act as calculated to strengthen the hands of Government in its endeavour to save their properties from serious injury when the representative of the family for the time being is too young or too weak to manage the family estate properly."

The Hon'ble KANWAR SIR HARNAM SINGH said:—"Your Honour,—I had no intention of making any speech on this occasion, but instead of a silent vote a few words may not be considered inappropriate.

"This Bill, I think, is on the whole of a similar nature to and based on the same principles as the United Provinces, Oudh and Madras Bills, which passed into law some time ago in their respective Councils. In these Councils, you are aware, Sir, that the measures were contested.

"It would be useless for me to take up all the arguments that were then put forward by the different Members.

"The Members of this Council, I presume, are aware of the controversial nature of the discussion.

"It is true that the Bill places more power into the hands of the Executive authorities than the old law, but no one can deny the good intentions of the Government in this measure.

"The object of the Government is to secure the old families from ruin, and I do not see how this result can otherwise be achieved.

"My own experience of the Court of Wards in Oudh, which extended over many years, was that considerable difficulties arose, whenever the Government wished to bring an estate under the Act with the intention of saving it from ruin.

"It frequently happened that the estates, brought under the Court of Wards, were released by the Civil Courts on the plea that the owner was not of unsound mind, while that very person was well known to the public as being quite incapable of the management of his affairs. The new law will, I think, help to remove such defects.

"Considering, however, that this Bill gives additional powers to the Executive authorities, I trust that the Government officers will use these powers with caution and discretion, and that the Bill, when it becomes law, will tend to improve and maintain the status of those families for whom it is intended and thereby, I may add, indirectly be benficial to the general public.

"With these remarks, Sir, I vote for the passing of the Bill."

His Honour the PRESIDENT said:—"I welcome this Act as a very useful addition to our Provincial Statute Book. The administration by official agency of the estates of persons who are unfit on account of minority, or sex, or some other manifest disqualification, to manage them themselves, is one of the most important duties and responsibilities which devolve upon Government. The

present law on the subject, as contained in the Punjab Laws Act, has been found by practical experience to be incomplete and defective on several material points, and the object of the present enactment is to remedy these deficiencies and to strengthen the hands of Government both as regards assuming the management of an estate in cases where it is clearly desirable to do so in the interests of the family concerned, and properly administering it when taken over. The principles and details of the Bill now under consideration have been very carefully determined and elaborated, and I trust that its provisions will be found to work satisfactorily.

"As regards the points which have been noticed by the Hon'ble MR. MADAN GOPAL, I agree with SIR LEWIS TUPPER that the question of empowering the Court of Wards to deal with a mortgagee in the manner proposed by the Hon'ble Member is one which well merits consideration, but I also agree with SIR LEWIS TUPPER that, for the reasons he has given, the present time is not an opportune one for dealing with this matter, and that it had better be reserved for future consideration after the working of the provisions of the Act as they now stand has been tested in practice."

The motion was put and agreed to.

PUNJAB LOANS LIMITATION BILL.

The Hon'ble SIR LEWIS TUPPER moved for leave to introduce a Bill to amend the law relating to the limitation of suits for the recovery of money due on account of money lent or advanced, or on an account stated, or in respect of goods supplied. He said:—"The Bill I ask leave to introduce is a very short and simple one, consisting of four sections and a brief schedule; but it deals with a matter of every day importance to all classes of the community. The proposal is in the case of suits for what may be generally described as money claims, and when the agreement is not registered, to extend the period of limitation from three to six years. We shall then have one and the same period of limitation for such suits whether the agreements are registered or not; and we shall secure the commercial advantage that the law here will be assimilated to that of England.

"Simple as the Bill is, it represents, so far as it affects the rural population, another move in that comprehensive scheme of policy by which the Government is endeavouring to deal with the great evil of agrarian indebtedness. There is the Punjab Alienation of Land Act, which, I venture to say, is succeeding beyond our expectations, and is already being copied in another Province. There is the Pre-emption Bill—a necessary consequence of the Alienation of Land Act—which, during this cold weather, has been discussed at numerous and prolonged meetings of the Select Committee, and will soon be in the hands of Government in a revised form. There is the Court of Wards Act which we have passed to-day; for the Government of India, while instituting, on behalf of the indebted peasantry, the proceedings which led to the passing of the Alienation of Land Act, held that the indebtedness of what I may perhaps call the landed gentry might be dealt with by the revision of the law relating to Courts of Wards. No doubt a certain amount of relief can be given in some cases by Court of Wards authority, though I am not myself satisfied that in the Punjab we have as yet done all we should do in this behalf. Then there are numerous and far-reaching executive measures; such as improvements in the *takavi* system and in the assessment, collection and remission of land revenue, and the extension of canal irrigation to famine tracts—all measures designed to enable the poorer peasantry to withstand more successfully the vicissitudes of season and to avoid more often than in the past the crushing burdens of penury and debt. And lastly there is the present Bill which, though affecting alike the rural community and every one in the Punjab who takes a receipt for money paid, had its origin in the self-same circumstances that produced the Punjab Alienation of Land Act. It is as

though we had planned a group of halls and habitations for some common purpose—say for the purposes of a University—and then asked you to sanction a particular building, harmonised with the rest in position and design, but intended to serve not only the special purpose in view, but also perhaps some needs of the public. That is our position with reference to this Bill. The principle of it was originally advocated for the benefit of agricultural debtors and creditors; but we hope it may be useful for the community at large and we specially desire to be favoured with opinions upon it from the commercial community.

" I am glad to think that it is part of the work of the Council to bring to the point of final enactment Punjab measures which have been in contemplation for many years. The present Bill is a case in point. As affecting the rural community, a very similar proposal was made by Sir James Lyall as Lieutenant-Governor in 1891. He proposed legislation on the lines of the Dekkhan Agriculturist Relief Act, and intended to appoint a Committee of Punjab officers to draft a Bill in accordance with his views. Originally we had a 12 years' term, then a 6 years' term, and this was reduced in 1859 to the 3 years' term which now obtains. Sir James Lyall remembered the last change and that both *sahukars* and peasant proprietors complained that the 3 years' period was too short for their dealings and dislocated their old business relations. The arguments that limitation can be saved by acknowledgments in writing or part payment, and that interest is determined by the market rate and the security, were not, he thought, worth much in the particular connection. They implied, in his opinion, commercial conditions which do not exist as between village money-lenders and illiterate peasant proprietors.

" 'The practice,' wrote Sir James Lyall, 'of demanding and agreeing to pay much more interest than you expect to get or intend to pay is ingrained among them, but when the lender has got his stamped bond or has launched his suit in court he is disposed to hold to the letter in the matter. So again the ordinary money-lender's ignorance of all but the broadest points of the law, and knowledge of the suspicion of fraud, perjury and forgery which pervades the courts, induce him to be with good reason very shy of any but the simplest methods of securing himself against his claims being barred by limitation. Hence frequent bonds and frequent suits in court.'

" To the letter which conveyed these views to the Government of India no final official reply was ever made. First of all the report of the Dekkhan Commission was awaited. Then the Punjab Government changed hands, and Sir Dennis Fitzpatrick was consulted on the proposals of his predecessor. Next there came an abortive proposal to depute Sir Edward Buck to discuss with Local Governments the question of agricultural indebtedness; and finally the letter was swept into the mass of records which formed the grist of that slowly grinding mill out of which we have the Punjab Alienation of Land Act as the first fruits.

" In addition to the arguments which I have quoted from Sir James Lyall there are others—some his and some those of other officers—which seem to me to make with much force for a longer term than three years in rural money suits. It was he who quoted the common saying that the *miyad* (period of limitation) was one of those things that had ruined the *zamindars.* The frequent writing of bonds for balances turns interest quickly into principal and deprives the debtor of remission of interest which he might otherwise have obtained. It has been well pointed out by my Hon'ble Friend MR. WILSON that it is foreign to the ideas of both creditors and debtors in this country that a short period of delay in recovering a debt should of itself operate to extinguish it. The possibility of such immunity demoralises the *zamindar* and forces into Court the village money-lender, who cannot trust his clients not to take the fullest advantage of their position. Hence the law precludes

that consideration for his clients which under other circumstances even a village *bania* may often be expected to show. I do not myself believe that the average village *bania* eagerly desires to go into Court He wants no doubt at some time or other to recover his money, but he is willing to wait if he does not do so at the peril of total loss ; and he would prefer to recover without going into Court if that were possible. A longer term in many cases gives him a better chance because in parts of the Punjab harvests are so precarious that for three years together the *zamindar* might not have crops that would enable him to pay his debts. In six years, if the skies are not too persistently unpropitious, there is a better prospect that some good harvests will occur.

" As to the connection of this Bill with the policy of the Punjab Alienation of Land Act, I do not argue that this Bill is a vital or inevitable part of that poilicy, but it is in harmony with it; and it is my conviction that the three years' term has done much to embitter the relations between agricultural borrowers and lenders ; while anything that would improve their relations may well form part of the readjustments of methods of business which must follow upon that Act. As I have explained in the proposals for a Punjab Bill made by Sir James Lyall in 1891 the present proposal had its place ; and Sir James Lyall's scheme has been merged in and superseded by our recent land legislation. It remains to hear what the *banias* will say, but I anticipate that they will not raise objections to the extension of the term. If so, this is an advantage, for there is no doubt that their objections to the Alienation of Land Act were and continue to be strong. It has indeed been suggested that we are mistaken in supposing that we are here doing a good turn to the *zamindars*. The longer the term the more difficult is it for them to prove fraud or want of consideration ; interest mounts up till the burden becomes impossible ; and the *bania* sees the accumulation with glee because it will enable him in the end to acquire the land. I admit some force in these objections, but much of it is lost now that mortgages by conditional sale are abolished and we have a positive rule of law that no land belonging to a member of an agricultural tribe notified as such under the Alienation of Land Act shall be sold in execution of decree. There will be opportunities for *bania zamindars*, that is members of agricultural tribes, who turn money-lenders; and for 'agriculturists' in the curious and technical sense of the expression used in the Alienation of Land Act. But the ordinary village money-lender will now, if I am not mistaken, have to leave the trade of land-grabber to some one else. The danger that a long period of limitation is the *bania's* opportunity to secure the land has sensibly diminished. The longer period is better suited than the shorter one to the traditional relations between *banias* and *zamindars* and the actual circumstances under which they do business with each other in this Province. And then there is the other point of view that credit based on land being now restricted we should enlarge credit based on personal security ; that for the mass of the peasant proprietors the principal item of property which will from year to year support such security is the crop ; and that in six years you are more likely to have a sufficiency of good harvests to enable the borrower to discharge his debt than in three. On the whole, though I am well aware that there is a good deal to be said against extending the term of limitation, I am convinced that the balance of argument is very decidedly in favour of the course that I am asking the Council to pursue.

" So far I have discussed the matter from the point of view of the rural community. It remains to explain how other classes came to be brought in. If we were to make the measure a purely agrarian one, how were we to define the classes concerned? One suggestion was that the longer term should apply only in suits brought against 'agriculturists' as defined for certain purposes in the Alienation of Land Act—a class which includes many men who are merely *banias* and not true agriculturists at all. Would it do then to define the class as members of agricultural tribes ? This would exclude large numbers

of the agricultural community who, though for various reasons not brought within the protection of the Alienation of Land Act, might well have the benefit of the longer period proposed. Moreover, member of an agricultural tribe is an expression which may vary in its comprehensiveness. Even now we have the list of such tribes under consideration; we shall certainly revise it before long; and a list which may vary from time to time at the discretion of the Local Government is not a very suitable basis for a limitation law. Finally, we discussed the idea of accepting a much wider definition of 'agriculturist' proposed by the Government of India in connection with the revision of the Code of Civil Procedure. That was so wide a definition that it would probably have protected all whom we desired to protect. But we should have had two different definitions of 'agriculturist' on the Statute Book—a misfortune which may yet befall us when the Bill to amend the Civil Procedure Code passes into law unless indeed, by some future amendment, the so-called 'agriculturist' disappears from the Act relating to the Alienation of Land. And apart from this, there is always uncertainty about the interpretation which the Courts will put upon such definitions, and litigation upon points of limitation might and probably would be longer, more elaborate and more expensive than ever if the issue is to be complicated in every case by the question whether the defendant is or is not an agriculturist, however defined. We were thus led to propose a clear, simple uniform rule applicable to all classes. This is in accordance with the advice given us by Sir W. O. Clark, the Chief Judge, at an early stage of the discussion; it assimilates our law, as already said, to the law of England; and it avoids class legislation—a thing doubtless necessary in certain cases, but which should, without strong necessity, be disallowed.

"For the above reasons I beg to move for leave to introduce the Bill."

The motion was put and agreed to.

The Hon'ble SIR LEWIS TUPPER introduced the Bill.

The Hon'ble SIR LEWIS TUPPER moved that the Bill be referred to a Select Committee consisting of the Hon'ble MR. ALEX. ANDERSON, the Hon'ble MR. MASSON, the Hon'ble MR. MADAN GOPAL and the Mover, and that the Bill be circulated for the purpose of eliciting opinion thereon.

The motions were put and agreed to.

ADJOURNMENT.

THE Council adjourned *sine die*.

LAHORE: } H. A. B. RATTIGAN,

The 11th May 1903. } *Secretary, Legislative Council, Punjab.*

Punjab Government Press, Lahore—21-5-03—715.

／Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MAY 28, 1903.

PART V.

Bill was introduced in the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations.

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[Third publication.]

THE following Bill was introduced in the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations on the 11th May 1903:—

Bill No. 1 of 1903.

A Bill to amend the law relating to the limitation of suits for the recovery of money due on account of money lent or advanced, or on an account stated, or in respect of goods supplied.

WHEREAS it is expedient to amend the law relating to the limitation of suits for the recovery of money due on account of money lent or advanced, or on an account stated, or in respect of goods supplied; it is hereby enacted as follows:—

Short title.

1. (*1*) This Act may be called the Punjab Loans Limitation Act, 1903.

Local extent.

(*2*) It extends to the Province of the Punjab.

Definition.

2. For the purposes of this Act the expression "instituted" shall have the meaning assigned to it in the explanation to section 4 of the Indian Limitation Act, 1877. India Act XV of 1877.

Dismissal of suits of the description specified in the Act if instituted after the period of limitation therein prescribed has expired.

3. Subject to the provisions contained in sections 5 to 25 (inclusive) of the Indian Limitation Act, 1877, and notwithstanding anything in the second schedule of the same Act to the contrary, every suit of the description specified in the schedule hereto annexed shall, if instituted after the period of limitation therein prescribed, be dismissed, although limitation has not been set up as a defence. India Act XV of 1877.

Right to sue barred not to be revived.

4. Nothing herein contained shall be deemed to revive any right to sue barred under the Indian Limitation Act, 1877. India Act XV of 1877.

THE SCHEDULE.

Description of suit.	Period of limitation.	Time from which period begins to run.
1. Suits of the description specified in Articles 52, 53, 57, 58, 59, 63, 64, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 80 and 85 of the second schedule of the Indian Limitation Act, 1877, if based on unregistered contracts.	6 years ...	The periods respectively specified in the said articles.

H. A. B. RATTIGAN, C. L. TUPPER,

Secretary, Legislative Council, Punjab. *Member.*

STATEMENT OF OBJECTS AND REASONS.

THE object of the present Bill is to extend the period of limitation from three to six years for suits of the description specified in the schedule. As the law stands at present, a suit for recovery of money due on account of a loan or an advance or in respect of an account stated or for goods supplied must, if the agreement upon which it is based has not been registered, in the ordinary course be instituted within three years of the dates respectively specified in the articles of the Indian Limitation Act, 1877, referred to in the schedule to the Bill, whereas in all such cases, if the agreement in question has been registered, a suit of the kind mentioned may be brought within six years of the said date. It these particular instances there seems to be no good reason for this distinction, while on the other hand it is considered that the period of three years allowed in the case of unregistered agreements is unduly short, and might advantageously be considerably extended. It is well known that a creditor, who would otherwise be quite content to give further time to his debtor, is often forced to institute legal proceedings simply in order to prevent his claim from becoming barred by limitation, with the result that litigation and its necessary consequence, bad feeling between the parties, are unnecessarily engendered. It is with a view to avoid such unfortunate results and to encourage creditors to allow their debtors further time for payment that the present Bill has been drafted, and it is hoped that if its provisions become law, there will be a decrease of litigation.

A measure such as the present Bill has been frequently proposed in the interests alike of indebted peasant proprietors and of the village money-lenders who are often forced by the existing law to put them into Court. But it is thought that all classes of the community may very properly have the benefit of what is believed to be a salutary change in the law; which moreover possesses the commercial advantage of assimilating the rule to be observed here with that which is already prescribed by the law of England.

H. A. B. RATTIGAN, C. L. TUPPER,

Secretary, Legislative Council, Punjab. *Member.*

Punjab Government Press, Lahore—28-5-03—715.

DIEU ET MON DROIT. HONI SOIT QUI MAL Y PENSE

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JUNE 25, 1903.

PART V.

Acts of the Lieutenant-Governor of the Punjab in Council which have received the assent of His Excellency the Governor-General in Council,

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[First publication.]

THE following Act of the Lieutenant-Governor of the Punjab in Council received the assent of His Honour the Lieutenant-Governor on the 2nd June 1903, and that of His Excellency the Viceroy and Governor-General in Council on the 12th June 1903, and is hereby promulgated for general information :—

PUNJAB ACT No. II OF 1903.

(Assent of the Governor-General first published in the Gazette of 25th June 1903.)

An Act to consolidate and amend the law relating to the Court of Wards in the Punjab.

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the Punjab; it is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, and extent.

1. (*1*) This Act may be called the Punjab Court of Wards Act, 1903.

(*2*) It extends to the whole of the Punjab.

Repeal.

2. (*1*) The enactments specified in the schedule are hereby repealed to the extent mentioned in the third column thereof.

(*2*) But all rules and appointments made, notifications and orders issued, authorities and powers conferred, farms and leases granted, rights acquired, liabilities incurred and other things done under any of those enactments shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, acquired, incurred and done under this Act.

(*3*) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or the corresponding portion thereof.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context, the expression—

(*a*) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but shall not include growing crops or grass;

(*b*) "land-holder" shall mean a person who possesses any interest in land, whether as proprietor, assignee of the land-revenue, lessee of waste lands or otherwise;

Indian Act IX of 1875.

(*c*) "minor" shall mean a person who has not, within the meaning of the Indian Majority Act, 1875, attained his majority; and

(*d*) "ward" shall mean any person in respect of whose person, or the whole or any part of whose property, or of whose person, and property, the Court of Wards by this Act constituted for the time being has assumed superintendence, but shall not include a joint-proprietor the superintendence of whose property has been assumed by the Court of Wards under section 8.

CHAPTER II.

THE COURT OF WARDS AND ITS JURISDICTION.

Constitution of the Court of Wards and its jurisdiction.

4. (*1*) The Financial Commissioner shall be the Court of Wards for the Punjab.

(*2*) The Court of Wards may exercise all or any of the powers conferred on it by this Act either direct or through the Commissioner of the Division or the Deputy Commissioner of the District within the limits of which any ward may at any time reside or any part of the property of any ward may be situate, or through any other person whom it may at any time, in respect of any ward or the whole or any part of the property of any ward, appoint in that behalf.

(*3*) The Court of Wards may, with the sanction of the Local Government, from time to time, by general or special order, or by rule made under this Act, delegate any of its powers to any Commissioner or Deputy Commissioner or other person as aforesaid, and may at any time, with the like sanction, revoke any such delegation.

(*4*) The powers and authority by this Act vested in the Court of Wards shall be exercised by it subject to the control of the Local Government.

Power of Local Government to make order, in certain cases, directing the Court of Wards to assume superintendence of properties of land-holders.

5. (*1*) Any land-holder may apply to the Local Government to make an order directing that his property be placed under the superintendence of the Court of Wards, and, upon receiving any such application, the Local Government may, if it considers it expedient in the public interest so to do, make an order accordingly.

(*2*) When it appears to the Local Government that any land-holder is—

(*a*) by reason of being a female; or

(*b*) owing to any physical or mental defect or infirmity; or

(*c*) owing to his having been convicted of a non-bailable offence and to his vicious habits or bad character; or

(*d*) owing to his having entered upon a course of wasteful extravagance likely to dissipate his property;

incapable of managing or unfitted to manage his affairs, the Local Government may make an order directing that the property of such land-holder be placed under the superintendence of the Court of Wards:

Provided that such an order shall not be made on the ground stated in clause (*c*) or on the ground stated in clause (*d*) unless such land-holder belongs to a family of political or social importance and the Local Government is satisfied that it is desirable, on grounds of public policy or general interest, to make such order.

(*3*) Every order made by the Local Government under sub-section (*1*) or sub-section (*2*), shall be final and shall not be called in question in any Court of Law.

Power of Court of Wards, of its own motion, to assume superintendence.

6. When any land-holder is a minor or a person adjudged by a competent Court to be of unsound mind and incapable of managing his affairs, the Court of Wards may make an order assuming the superintendence of the property, or the person and property of such land-holder.

Court of Wards shall assume superintendence in cases in which an order is made under section 5 and may do so when Collector is appointed guardian under Act VIII of 1890.

7. (*1*) When, in respect of any land-holder, an order is made by the Local Government under sub-section (*1*) or sub-section (*2*) of section 5, the Court of Wards shall assume the superintendence of the property of such land-holder, and, may in its discretion also assume the superintendence of his person.

(*2*) When the Deputy Commissioner is appointed or declared to be guardian of the person or property, or both, of a minor, under the provisions of section 18 of the Guardian and Wards Act, 1890, he shall intimate the fact to the Court of Wards, and the Court of Wards may thereupon, in its discretion, either assume, or refrain from assuming, the superintendence of the person or property, or both (as the case may be), of such minor, and the provisions of this Act shall, if such superintendence be so assumed, apply to the person or property, or both (as the case may be), of such minor.

India Act VIII of 1890.

Properties of which there are more proprietors than one.

8. When there are two or more proprietors of any property and the shares of the several proprietors have not been separated off, and the Court of Wards, acting

under section 6 or section 7, assumes the superintendence of the property of one or more, but not all, of such proprietors, the Court of Wards may assume the superintendence also of the shares of such joint-proprietor or joint-proprietors as is or are not disqualified, paying any such proprietor the surplus income accruing from his share of the property. The superintendence assumed under this section shall extend only to the management of the share of the joint-proprietor in such joint property and shall not as regards such share include the power to sell or mortgage the same or any part thereof or to grant a lease thereof for a period exceeding 20 years or to create any charge thereon or interest therein.

Notification of assumption of superintendence.

9. Whenever the Court of Wards assumes the superintendence of the person or property of any person under any of the provisions of this Act, the order of assumption shall be notified in the Gazette, and shall specify the district the Deputy Commissioner of which shall be put in charge on behalf of the Court of Wards.

Operation and finality of orders made under sections 6, 7 and 8.

10. Every order made by the Court of Wards assuming, under sections 6, 7 and 8, respectively, the superintendence of the person or property, or both, of any person shall take effect from the date fixed in this behalf in the notification published under section 9, and shall be final and shall not be called in question in any Court of Law.

CHAPTER III.

INQUIRY AND ACTION PRECEDING ASSUMPTION OF SUPERINTENDENCE.

Inquiry by Deputy Commissioner in order to satisfy himself as to whether action should be taken under the Act.

11. (*1*) For the purpose of satisfying himself as to whether, in respect of any land-holder,—

(*a*) the Local Government should be moved to make an order under sub-section (*2*) of section 5, or

(*b*) the Court of Wards should be moved to make an order under section 6,

or for the purpose of making any report which may be called for in connection with any application of a land-holder under sub-section (*1*) of section 5, the Deputy Commissioner may make such inquiry into the circumstances of such land-holder as he may deem necessary, and, pending the taking of any such action, may issue such orders for the temporary custody and protection of the person or property, or both, of such land-holder, as he thinks fit.

(*2*) If the land-holder be a minor, the Deputy Commissioner may direct that the person, if any, then having the custody of the minor, shall produce him, or cause him to be produced, at such place and time as the Deputy Commissioner appoints, and may make such order for the future custody of the minor, pending the orders of the Court of Wards, as he thinks proper.

(*3*) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (*2*) shall require her to be produced in accordance with the manners and customs of the country.

(*4*) If the land-holder is alleged to be or is of unsound mind, the Deputy Commissioner shall make application to a competent Court in view to an inquiry being made by such Court for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs.

Procedure in inquiries.

12. (*1*) For the purposes of every inquiry to be made, or direction to be given, in pursuance of any of the provisions of this Act, the Deputy Commissioner may exercise all or any of the powers of a Civil Court under the Code of Civil Procedure. India Act XIV of 1882.

(*2*) For the purpose of protecting the property, or any part thereof, of any land-holder, pending an inquiry under sub-section (*1*) of section 11, the Deputy Commissioner may, subject to the direction and control of the Court of Wards, take possession thereof and appoint a manager and such care-takers in respect thereto as he may deem fit.

CHAPTER IV.

WARDSHIP AND ITS CONSEQUENCES.

Vesting of property of ward in the Court of Wards.

13. (*1*) Upon the publication of a notification under section 9, in respect of the property of any person, the whole of such property, at the date of the notification, shall vest in the Court of Wards, and shall remain so vested until the Court of Wards shall, by notification under section 50, divest itself of the superintendence of the whole or any part thereof, or is otherwise divested of such superintendence in due course of law.

(*2*) All rights accruing to and property inherited by or vesting in any ward after the publication of a notification under section 9, and while the property of such ward is under the superintendence of the Court of Wards, shall vest in the Court of Wards:

Provided that the Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which any ward may acquire, otherwise than by inheritance, subsequent to the date of the notification published under section 9.

Non-liability of land vested in the Court of Wards to sale for arrears of revenue.

14. No land under the superintendence of the Court of Wards shall be sold for arrears of revenue accruing while such land is under such superintendence.

Disabilities of wards.

15. No ward shall be competent—

(*a*) to transfer or create any charge on, or interest in, the whole or any part of his property which is under the superintendence of the Court of Wards, or to enter into any contract which may involve him in pecuniary liability:

Provided that nothing in this clause shall be deemed to affect the capacity of a ward to enter into a contract of marriage: but he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable;

(*b*) without the previous sanction, in writing, of the Court of Wards, (*1*) to adopt, or (*2*) to give permission to adopt, or (*3*) to dispose of any property by will.

Continuing disabilities in certain cases.

16. (*1*) When the property of any land-holder, in respect of whom an order has been made under sub-section (*1*) or on the last ground stated in sub-section (*2*) of section 5, is released from the superintendence of the Court of Wards, such land-holder shall not be competent, without the previous sanction of the Local Government, to alienate the whole or any part of the immoveable property which has been so released, in any way, or to create any charge upon any such property extending beyond his lifetime, and every transfer made or attempted to be made, or charge created or attempted to be created, in contravention of this provision, shall be void.

(*2*) No suit shall be brought whereby to charge any person upon any promise made after he has ceased to be a ward to pay any debt contracted during the period when he was a ward, or upon any ratification made after he has ceased to be a ward of any promise or contract made during the above period, whether there shall or shall not be any new consideration for such promise or ratification.

Power of the Court of Wards to act on behalf of wards and to deal with their properties.

17. (*1*) The Court of Wards may, at any time, mortgage or sell the whole or any part of the property of a ward, and may grant leases or farms of the whole or any part of such property for such terms as it thinks fit, and may make such remissions of rental or other arrears and may generally and from time to time pass all such orders and do all such acts, not inconsistent with the provisions of this or any other enactment for the time being in force, as it may deem to be for the advantage of the ward or the benefit of his property.

(2) The Court of Wards may, for the purpose of raising a loan for the benefit of a ward or his property, hypothecate, with the consent of the Local Government, any *jágír*, *muáfi*, pension or assignment of land revenue held by the ward.

Deeds and other instruments.

18. (*1*) All deeds, contracts or other instruments executed by the Court of Wards in the exercise of its powers of superintendence under this Act, shall be executed by the Court of Wards in its own name.

(*2*) Covenants entered into by the Court of Wards shall be binding on the Court of Wards only so long as the ward or the property affected by such covenants remains under its superintendence and only to the extent of such property; and such covenants shall be binding on the ward or on the person entitled to such property after the ward or the property or both (as the case may be) shall have been released from superintendence.

(*3*) This section shall also apply to all deeds, contracts and other instruments executed before the commencement of this Act.

Notice of suit.

19. No suit relating to the person of any ward or to any property under the superintendence of the Court of Wards shall be instituted in any Civil or Revenue Court until the expiration of two months after notice in writing has been delivered to, or left at, the office of the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9, stating the name and place of abode of the intending plaintiff, the cause of action, and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left:

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under section 9.

Suits to be in name of Court of Wards.

20. (*1*) No suit (*a*) by or on behalf of a ward, or (*b*) affecting any property under the superintendence of the Court of Wards shall be brought without the authority of the Court of Wards or of such officer as it may appoint in that behalf, and

in every such suit brought with such authority the Court of Wards shall be named as plaintiff.

(2) In every suit against a ward or affecting property under the superintendence of Court of Wards the Court of Wards shall be named as the defendant.

(3) Suits brought by or against any Court of Wards may be instituted and conducted or defended on behalf of the Court of Wards by the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9, or by the manager or other person authorised, by general or special order or rule made under this Act, in that behalf, by the Court of Wards.

CHAPTER V.

GENERAL PROVISIONS AS TO THE SUPERINTENDENCE OF THE PERSONS AND PROPERTIES OF WARDS.

Court of Wards assuming superintendence of the property to take possession thereof. Procedure as to property situate in other districts.

21. As soon as conveniently may be after the assumption, by the Court of Wards, of the superintendence of the property of any person, the Deputy Commissioner of every district within which any part of such property may be situated, or some person authorised, in writing, by him in this behalf, shall take possession of all such property and all accounts and papers relating thereto, and shall do all other acts and things which may be necessary to secure and protect the same and place it under proper custody and control.

Powers of Court of Wards as to superintendence and control. Audit of accounts and management of legal affairs of wards and proporties.

22. The Court of Wards may from time to time direct such provision as it may think fit to be made in respect of the—

(1) superintendence and supervision of the persons of the wards and properties under its superintendence;

(2) periodical or special audit, by an independent auditor, of the accounts of properties generally, or of any particular property, as it may think fit;

(3) management of the legal affairs of properties generally, or of any particular property, as it may think fit.

Power of Court of Wards to charge expenses against properties under its superintendence.

23. The Court of Wards may from time to time regulate the expenses to be incurred in the supervision, care and management of the wards and properties under its superintendence, and generally in carrying out all or any of the purposes of this Act, and may order that such expenses, or any of them, including all salaries, gratuities and leave allowances of establishments and all contingent and other expenses whatsoever which it shall consider requisite, be charged against such property generally, or against any one or more properties comprised in such property for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred.

Residence and education of wards.

24. (1) The Court of Wards may pass such orders as it thinks fit in respect of the residence of any ward whose person is for the time being under its superintendence, and, when he is a male minor, in respect of his education.

(2) The Court of Wards may from time to time require any such male minor ward to attend such tutor, class, school or college, for the purposes of education, as it thinks fit.

Allowance for ward and his family.

25. (1) The Court of Wards may from time to time determine what sums shall be allowed in respect of the expenses of any ward and of his family and dependents.

(2) The Court of Wards may from time to time determine what sums may be spent on the education of any minor ward whose person is for the time being under its superintendence.

CHAPTER VI.

ASCERTAINMENT AND LIQUIDATION OF LIABILITIES OF WARDS.

Notice to claimants.

26. (1) On the publication of a notification under section 9, the Deputy Commissioner of the District specified in the order of assumption or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf, shall publish in the Gazette a notice, in both the English and the Urdu languages, calling upon all persons having claims against the ward or against the property under the superintendence of the Court of Wards to notify the same in writing to such Deputy Commissioner within six months from the date of the publication of the notice.

(2) The notice may also be published at such places and in such other manner as the Court of Wards may, by general or special order, direct or by rule, made under this Act, prescribe.

(3) The Deputy Commissioner may, if he is satisfied that any claimant had reasonable excuse for not submitting his statement of claim within six months, receive his claim at any time after the expiry of the period aforesaid, but any claim so received shall, unless the Deputy Commissioner otherwise directs and notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid.

Presentation of claims.

27. (1) Every claimant shall, together with his statement of claim, present full particulars thereof.

(2) Every document (including entries in books of account) on which the claimant founds his claim, or on which he relies in support thereof, shall be produced before the Deputy Commissioner with the statement of claim.

(3) Every such document shall be accompanied by a true copy of the same. The Deputy Commissioner, or such officer as he may appoint in that behalf, shall mark the original document for the purpose of identification, and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

Examination into, admission and rejection of, claims.

28. (1) The Deputy Commissioner shall, after such inquiry as he may consider necessary, decide, as to each claim made against any ward or property, in manner in section 26 and section 27 provided, whether such claim is, either in whole or in part, to be admitted or disallowed, and shall intimate, in writing, his decision in respect of each such claim to the claimant thereof. If such liabilities cannot be paid at once the decision shall fix the interest (if any) to be paid thereon from the date of such decision to the date of the payment and discharge of such claim.

Bar of claims not duly notified.

29. Every debt or liability (other than debts due to, or liabilities incurred in favour of, the Government) to which any ward is subject, or with which any property under the superintendence of the Court of Wards or any part thereof is charged, and which is not duly notified to the said Deputy Commissioner within the time and in the manner hereinbefore prescribed, shall, subject to the provisions of section 7 and section 13 of the Indian Limitation Act, 1877, be deemed for all purposes and on all occasions, whether during the continuance of the superintendence of the Court of Wards or afterwards, to have been duly discharged:

India Act XV of 1877.

Provided that the provisions of this section shall not be deemed to extinguish any such debt or liability in any case in which the Court of Wards, after assuming the superintendence of such property, releases the same from such superintendence without ascertaining and dealing with the liabilities thereof as in this chapter provided in that behalf, and that, in any such case, in computing the period of limitation applicable to any suit or application for the recovery of any such debt or the enforcement of any such liability, the time from the date of the notification of claim under section 26, to the date of the release of the property from the superintendence of the Court of Wards, shall be excluded.

Exclusion of documents not produced.

30. If any document in the possession or under the control of the claimant is not produced by him as required by section 27, such document shall not be admissible in evidence in any suit or proceeding thereafter brought against a ward or as affecting any property under the superintendence of the Court of Wards by the claimant, or by any person claiming under him.

Decrees against wards or their properties and their execution.

31. (1) Nothing contained in this chapter shall be deemed to empower the Deputy Commissioner to disallow any claim, notified under section 26, which is based upon a decree passed by any competent Court, and any such decree may be proved by the production of a certified copy of the same accompanied by a certificate from the proper Court that such decree remains unsatisfied.

(2) On the publication of a notice under section 26, all suits and all proceedings in execution of any decree against a ward or as affecting any property under the superintendence of the Court of Wards then pending in any Civil Court shall be stayed until the plaintiff or the decree-holder files a certificate that the claim has been notified in accordance with section 26.

(3) No fresh proceedings in execution of any decree against a ward or as affecting such property, other than a decree in respect of a transaction subsequent to the date of the notification under section 9, shall be instituted in, nor shall any attachment or other process in execution of such decree be issued by, any Civil Court, until the decree-holder files a certificate to the effect specified in clause (2).

Saving of right to sue in certain cases.

32. (1) Subject to the provisions of section 19 and section 31, nothing in this chapter shall be construed as preventing any claimant from bringing or prosecuting any suit, in any competent Court, in respect of any claim which has been duly notified, within the time and in the manner hereinbefore prescribed, to the Deputy Commissioner, and which has, whether in whole or in part, been disallowed by him, but

no suit shall at any time be brought or be maintainable in respect of any claim which has not been so notified or to set aside or modify the order of a Deputy Commissioner (if any) fixing a date for the payment of such claim or regulating the order on which claims against the ward or properties under the superintendence of the Court of Wards shall be paid.

India Act XV of 1877. India Act XIV of 1882.

(2) In computing any period of limitation prescribed by the Indian Limitation Act, 1877, or section 230 of the Civil Procedure Code, every period during which proceedings have been stayed or temporarily barred by reasons of the provisions of this section or of section 31 shall be excluded.

Appeal and revision.

33. No appeal shall lie from any decision given or order made by a Deputy Commissioner under this chapter, but nothing in this section shall be deemed in any way to limit or interfere with the power of the Court of Wards to revise any such decision or order.

Local Government may confer the powers of Deputy Commissioner on any person.

34. For the purposes of this chapter, the Local Government may, at any time or at any stage of any proceedings thereunder, invest any person with all or any of the powers of a Deputy Commissioner.

CHAPTER VII.

GUARDIANS AND MANAGERS.

Appointment, removal and control of guardians and tutors.

35. (1) The Court of Wards may from time to time appoint guardians for the care of the persons of such wards as are minors or of unsound mind, or are suffering from any physical or mental defect or infirmity, or are females and unmarried, and may control and remove such guardians, and no appointment of a guardian for any ward shall be valid unless and until it has been confirmed by the Court of Wards.

India Act VIII of 1890.

(2) In appointing a guardian under this section, the Court of Wards shall be guided, as far as may be, by the provisions of section 17 of the Guardians and Wards Act, 1890, and if a ward leaves or is removed from the custody of a guardian appointed under this section, the Deputy Commissioner of the District specified in the notification issued under section 9 may exercise the powers conferred by section 25 of the said Act on a Court as ...fined in that Act.

(3) The Court of Wards may appoint any person to be the tutor of any minor male ward and may control and remove such tutor. Every tutor so appointed shall discharge such duties and regulate his conduct in such manner as the Court of Wards may from time to time direct.

No person who can succeed to ward to be appointed guardian.

36. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian; but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

Duties and responsibilities of guardians.

37. A guardian appointed under this chapter shall be charged with the custody of the ward, and shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made, under this Act, in that behalf, make suitable provision for his maintenance, health and, if he be a minor, his education and such other matters as the personal law to which the ward is subject, requires and shall—

(a) give such security, if any, as the Court of Wards thinks fit for the due performance of his duty;

(b) submit such accounts as the Court of Wards may direct;

(c) pay the balances due from him thereon;

(d) continue liable to account to the Court of Wards, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;

(e) apply for the sanction of the Court of Wards to any act which may involve expense not previously sanctioned by it; and

(f) be entitled to such salary or allowance, to be paid out of the proceeds of the property of the ward, as the Court of Wards thinks fit, in respect of the execution of his duties as such.

Appointment, control and removal of managers.

38. The Court of Wards may appoint one or more managers for any properties under its superintendence and may control and remove such managers.

Powers of managers

39. A manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made, under this Act, in that behalf, have power to collect the rents of the lands placed under his charge as well as all other money due to the ward or person whose property he manages, and to grant receipts therefor; and he may, subject to the same supervision, direction and rules (if any), grant and renew leases and farms, and do all such lawful acts as he may be generally or specially authorised by the Court of Wards to do for the good management of the property.

40. Every manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and to the rules (if any) made, under this Act, in that behalf, manage the property or properties placed under his charge diligently and faithfully, and he shall—

Duties and responsibilities of managers.

(*a*) give such security, if any, as the Court of Wards thinks fit, duly to account for what he may receive in respect of the rents and profits and other income of the property under his charge;

(*b*) keep accounts in such form and submit them at such times as the Court of Wards may direct;

(*c*) deal with all money received by him in such manner as the Court of Wards may direct;

(*d*) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by it;

(*e*) be entitled to such salary or allowance, to be paid out of the proceeds of such property, as the Court of Wards thinks fit, in respect of the execution of his duties;

(*f*) be responsible for any loss occasioned to the property by his negligence or wilful default; and

(*g*) continue liable to account to the Court of Wards after he has ceased to be manager for his receipts and disbursements during the period of his management.

41. The appointment of every guardian or manager appointed under this chapter, shall terminate on the Court of Wards ceasing to exercise superintendence of the person or property in respect of whom or which such guardian or manager, as the case may be, has been appointed.

Termination of appointment of guardian or manager.

42. (*1*) Every guardian and manager appointed under this chapter shall be deemed to be a 'public servant' within the meaning of section 21 of the Indian Penal Code and for the purposes of that Code.

Guardians and managers to be deemed to be public servants and managers and certain guardians to be deemed to be public accountants.

India Act XLV of 1860

(*2*) Every such manager shall be deemed to be a 'public accountant' within the meaning of the Public Accountants Act, 1850, and every such guardian shall be deemed to be a 'public accountant' within the meaning and for the purposes of sections 3 to 5 of the Public Accountants Act, 1850.

India Act XII of 1850.

Ibid.

(*3*) In the definition of 'legal remuneration' contained in section 161 of the Indian Penal Code, the word 'Government' shall, for the purposes of this section, be deemed to include the Court of Wards.

43. If no such guardian or manager is appointed by the Court of Wards, the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9 or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf, shall be competent to do anything that might be lawfully done by a guardian of the person or a manager of the property appointed under this chapter.

Deputy Commissioner when to discharge the duties of guardian or manager.

CHAPTER VIII.

RELEASE OF PERSONS AND PROPERTIES FROM SUPERINTENDENCE.

44. The Court of Wards may, at any time, release any person or property, or both, from its superintendence:

Power to release from superintendence.

Provided that the property of a land-holder who has been made a ward in accordance with an order made under section 5, shall not be released from the superintendence of the Court of Wards without the previous sanction of the Local Government:

Provided, further, that persons or property under the charge of the Court of Wards in accordance with the provisions of sub-section (*2*) of section 7, shall not be released without the concurrence of the Court which appointed or declared the Deputy Commissioner to be guardian of the person or property, or both, of the person concerned, under the Guardians and Wards Act, 1890. India Act VIII of 1890

45. (*1*) Whenever a ward dies or ceases to be under any legal incapacity, and his property is, at the time of his death or cessation of incapacity, still encumbered with debts and liabilities, the Court of Wards may either release such property or, with the sanction of the Local Government, retain it or any part thereof under its superintendence until such debts and liabilities have been discharged.

Retention of superintendence of property until discharge of debts.

(*2*) In any case provided for in sub-section (*1*) the Court of Wards may together with the property of any such ward also retain, until the said debts and liabilities have been discharged, the property of which it has assumed the superintendence under section 8.

Retention of superintendence where there are more proprietors than one.

46. If, in the case of any property, there are more proprietors than one, the Court of Wards may retain the whole property under its superintendence if one or more of the proprietors remain wards, although other or others may have ceased to be under any legal incapacity :

Provided that in such cases a proprietor who have ceased to be disqualified shall not, after the cessation of such disqualification, be deemed to be a ward for the purposes of this Act and the Court of Wards shall pay to such proprietor the surplus income accruing from his share of the joint property.

Appointment of guardian on release of minor.

47. (*1*) When the Court of Wards decides to release from its superintendence the person or property, or both, of any minor, it may, before such release, by an order in writing, appoint any person to be the guardian of the person or property, or both, of such minor.

(*2*) Such appointment shall take effect from the date of such release.

India Act VIII of 1890.

(*3*) In appointing a guardian under this section the Court of Wards shall be guided by the provisions of section 17 of the Guardians and Wards Act, 1890, and in every such case the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9 shall have the powers conferred upon a Deputy Commissioner under section 35 (*2*).

Ibid

(*4*) Every such guardian shall have and be subject to the same rights, duties and liabilities as if he had been appointed under the Guardians and Wards Act, 1890.

Disposal of property after the death of a person of whose property the Court of Wards has assumed superintendence.

48. Whenever, in the event of the death of any person of whose property the Court of Wards has assumed superintendence, the succession to his property, or any part thereof, is unclaimed or disputed, the Court of Wards may either direct that the property, or part thereof, be made over to any person entitled to or claiming the same, or may institute a suit of interpleader against the several claimants, or may retain the superintendence thereof until a claimant has, in due course of law, established his title thereto in a competent Court.

Delivery of documents and accounts on release of property.

49. Whenever the Court of Wards releases the property of any person from its superintendence, it shall deliver to such person or if it has appointed a guardian under sub-section (*1*) of section 47, to such guardian all documents of title and all papers and accounts (other than Government records) relating to such property.

Notification as to release from superintendence.

50. Whenever the Court of Wards releases any person or property from its superintendence, the fact of such release shall be notified in the Gazette, and such release shall take effect from the date fixed in this behalf in the notification.

Recovery of expenses.

51. Any expense incurred by the Court of Wards on account of any property under its superintendence may, after the release of such property, be recovered as an arrear of land-revenue due in respect of such property or any part thereof.

CHAPTER IX.

MISCELLANEOUS PROVISIONS.

Bar of suits and proceedings.

52. (*1*) No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act.

(*2*) No suit shall be brought against any officer of Government or any guardian, manager or servant appointed by and discharging his duties under a Court of Wards for anything done by him in good faith under this Act.

Investigations into matters under Chapters VI and VII to be considered judicial proceedings.

53. Every investigation conducted by a Deputy Commissioner with reference to any claim preferred before him under Chapter VI or Chapter VII or to any matter connected with any such claim shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Power to make rules

54. The Court of Wards may, with the previous sanction of the Local Government, make rules consistent with this Act regulating all or any of the following matters, namely,—

(*a*) the management of properties or of all or any property under the superintendence of the Court of Wards;

(*b*) the procedure to be observed and the powers to be exercised by all or any persons in all or any proceedings under this Act ; and

(*c*) generally for the purpose of giving effect to all or any of the provisions of this Act.

SCHEDULE.

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
XXVI of 1854	Education of male minors subject to the superintendence of the Court of Wards.	The whole so far as it applies to the Punjab.
IV of 1872 ...	The Punjab Laws Act, 1872.	Sections 34 38, inclusive.
XII of 1887 ...	Amendment of the Punjab Laws Act, 1872.	Sections 3 and 4.

C. J. HALLIFAX,

Secy. to Govt., Punjab Home (Legislative) Department.

Punjab Government Press, Lahore—25-6-03—715.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JULY 2, 1903.

PART V.

Acts of the Lieutenant-Governor of the Punjab in Council which have received the assent of His Excellency the Governor-General in Council.

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[Second publication.]

THE following Act of the Lieutenant-Governor of the Punjab in Council received the assent of His Honour the Lieutenant-Governor on the 2nd June 1903, and that of His Excellency the Viceroy and Governor-General in Council on the 12th June 1903, and is hereby promulgated for general information :—

PUNJAB ACT No. II OF 1903.

(Assent of the Governor-General first published in the Gazette of 25th June 1903.)

An Act to consolidate and amend the law relating to the Court of Wards in the Punjab.

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the Punjab; it is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, and extent.

1. (1) This Act may be called the Punjab Court of Wards Act, 1903.

(2) It extends to the whole of the Punjab.

Repeal.

2. (1) The enactments specified in the schedule are hereby repealed to the extent mentioned in the third column thereof.

(2) But all rules and appointments made, notifications and orders issued, authorities and powers conferred, farms and leases granted, rights acquired, liabilities incurred and other things done under any of those enactments shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, acquired, incurred and done under this Act.

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or the corresponding portion thereof.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context, the expression—

(a) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but shall not include growing crops or grass;

(b) "land-holder" shall mean a person who possesses any interest in land, whether as proprietor, assignee of the land-revenue, lessee of waste lands or otherwise;

Indian Act IX of 1875.

(c) "minor" shall mean a person who has not, within the meaning of the Indian Majority Act, 1875, attained his majority; and

(d) "ward" shall mean any person in respect of whose person, or the whole or any part of whose property, or of whose person, and property, the Court of Wards by this Act constituted for the time being has assumed superintendence, but shall not include a joint-proprietor the superintendence of whose property has been assumed by the Court of Wards under section 8.

CHAPTER II.

THE COURT OF WARDS AND ITS JURISDICTION.

Constitution of the Court of Wards and its jurisdiction.

4. (1) The Financial Commissioner shall be the Court of Wards for the Punjab.

(2) The Court of Wards may exercise all or any of the powers conferred on it by this Act either direct or through the Commissioner of the Division or the Deputy Commissioner of the District within the limits of which any ward may at any time reside or any part of the property of any ward may be situate, or through any other person whom it may at any time, in respect of any ward or the whole or any part of the property of any ward, appoint in that behalf.

(3) The Court of Wards may, with the sanction of the Local Government, from time to time, by general or special order, or by rule made under this Act, delegate any of its powers to any Commissioner or Deputy Commissioner or other person as aforesaid, and may at any time, with the like sanction, revoke any such delegation.

(4) The powers and authority by this Act vested in the Court of Wards shall be exercised by it subject to the control of the Local Government.

Power of Local Government to make order, in certain cases, directing the Court of Wards to assume superintendence of properties of land-holders.

5. (1) Any land-holder may apply to the Local Government to make an order directing that his property be placed under the superintendence of the Court of Wards, and, upon receiving any such application, the Local Government may, if it considers it expedient in the public interest so to do, make an order accordingly.

(2) When it appears to the Local Government that any land-holder is—

(a) by reason of being a female; or

(b) owing to any physical or mental defect or infirmity; or

(c) owing to his having been convicted of a non-bailable offence and to his vicious habits or bad character; or

(d) owing to his having entered upon a course of wasteful extravagance likely to dissipate his property;

incapable of managing or unfitted to manage his affairs, the Local Government may make an order directing that the property of such land-holder be placed under the superintendence of the Court of Wards:

Provided that such an order shall not be made on the ground stated in clause (c) or on the ground stated in clause (d) unless such land-holder belongs to a family of political or social importance and the Local Government is satisfied that it is desirable, on grounds of public policy or general interest, to make such order.

(3) Every order made by the Local Government under sub-section (1) or sub-section (2), shall be final and shall not be called in question in any Court of Law.

Power of Court of Wards, of its own motion, to assume superintendence.

6. When any land-holder is a minor or a person adjudged by a competent Court to be of unsound mind and incapable of managing his affairs, the Court of Wards may make an order assuming the superintendence of the property, or the person and property of such land-holder.

Court of Wards shall assume superintendence in cases in which an order is made under section 5 and may do so when Collector is appointed guardian under Act VIII of 1890.

7. (1) When, in respect of any land-holder, an order is made by the Local Government under sub-section (1) or sub-section (2) of section 5, the Court of Wards shall assume the superintendence of the property of such land-holder, and, may in its discretion also assume the superintendence of his person.

(2) When the Deputy Commissioner is appointed or declared to be guardian of the person or property, or both, of a minor, under the provisions of section 18 of the Guardian and Wards Act, 1890, he shall intimate the fact to the Court of Wards, and the Court of Wards may thereupon, in its discretion, either assume, or refrain from assuming, the superintendence of the person or property, or both (as the case may be), of such minor, and the provisions of this Act shall, if such superintendence be so assumed, apply to the person or property, or both (as the case may be), of such minor.

India Act VIII of 1890.

Properties of which there are more proprietors than one.

8. When there are two or more proprietors of any property and the shares of the several proprietors have not been separated off, and the Court of Wards, acting

under section 6 or section 7, assumes the superintendence of the property of one or more, but not all, of such proprietors, the Court of Wards may assume the superintendence also of the shares of such joint-proprietor or joint-proprietors as is or are not disqualified, paying any such proprietor the surplus income accruing from his share of the property. The superintendence assumed under this section shall extend only to the management of the share of the joint-proprietor in such joint property and shall not as regards such share include the power to sell or mortgage the same or any part thereof or to grant a lease thereof for a period exceeding 20 years or to create any charge thereon or interest therein.

Notification of assumption of superintendence.

9. Whenever the Court of Wards assumes the superintendence of the person or property of any person under any of the provisions of this Act, the order of assumption shall be notified in the Gazette, and shall specify the district the Deputy Commissioner of which shall be put in charge on behalf of the Court of Wards.

Operation and finality of orders made under sections 6, 7 and 8.

10. Every order made by the Court of Wards assuming, under sections 6, 7 and 8, respectively, the superintendence of the person or property, or both, of any person shall take effect from the date fixed in this behalf in the notification published under section 9, and shall be final and shall not be called in question in any Court of Law.

CHAPTER III.

INQUIRY AND ACTION PRECEDING ASSUMPTION OF SUPERINTENDENCE.

Inquiry by Deputy Commissioner in order to satisfy himself as to whether action should be taken under the Act.

11. (*1*) For the purpose of satisfying himself as to whether, in respect of any land-holder,—

(*a*) the Local Government should be moved to make an order under sub-section (*2*) of section 5, or

(*b*) the Court of Wards should be moved to make an order under section 6,

or for the purpose of making any report which may be called for in connection with any application of a land-holder under sub-section (*1*) of section 5, the Deputy Commissioner may make such inquiry into the circumstances of such land-holder as he may deem necessary, and, pending the taking of any such action, may issue such orders for the temporary custody and protection of the person or property, or both, of such land-holder, as he thinks fit.

(*2*) If the land-holder be a minor, the Deputy Commissioner may direct that the person, if any, then having the custody of the minor, shall produce him, or cause him to be produced, at such place and time as the Deputy Commissioner appoints, and may make such order for the future custody of the minor, pending the orders of the Court of Wards, as he thinks proper.

(*3*) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (*2*) shall require her to be produced in accordance with the manners and customs of the country.

(*4*) If the land-holder is alleged to be or is of unsound mind, the Deputy Commissioner shall make application to a competent Court in view to an inquiry being made by such Court for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs.

Procedure in inquiries.

12. (*1*) For the purposes of every inquiry to be made, or direction to be given, in pursuance of any of the provisions of this Act, the Deputy Commissioner may exercise all or any of the powers of a Civil Court under the Code of Civil Procedure. India Act XIV of 1882.

(*2*) For the purpose of protecting the property, or any part thereof, of any land-holder, pending an inquiry under sub-section (*1*) of section 11, the Deputy Commissioner may, subject to the direction and control of the Court of Wards, take possession thereof and appoint a manager and such care-takers in respect thereto as he may deem fit.

CHAPTER IV.

WARDSHIP AND ITS CONSEQUENCES.

Vesting of property of ward in the Court of Wards.

13. (*1*) Upon the publication of a notification under section 9, in respect of the property of any person, the whole of such property, at the date of the notification, shall vest in the Court of Wards, and shall remain so vested until the Court of Wards shall, by notification under section 50, divest itself of the superintendence of the whole or any part thereof, or is otherwise divested of such superintendence in due course of law.

(*2*) All rights accruing to and property inherited by or vesting in any ward after the publication of a notification under section 9, and while the property of such ward is under the superintendence of the Court of Wards, shall vest in the Court of Wards:

Provided that the Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which any ward may acquire, otherwise than by inheritance, subsequent to the date of the notification published under section 9.

Non-liability of land vested in the Court of Wards to sale for arrears of revenue.

14. No land under the superintendence of the Court of Wards shall be sold for arrears of revenue accruing while such land is under such superintendence.

Disabilities of wards.

15. No ward shall be competent—

(*a*) to transfer or create any charge on, or interest in, the whole or any part of his property which is under the superintendence of the Court of Wards, or to enter into any contract which may involve him in pecuniary liability:

Provided that nothing in this clause shall be deemed to affect the capacity of a ward to enter into a contract of marriage: but he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable;

(*b*) without the previous sanction, in writing, of the Court of Wards, (*1*) to adopt, or (*2*) to give permission to adopt, or (*3*) to dispose of any property by will.

Continuing disabilities in certain cases.

16. (*1*) When the property of any land-holder, in respect of whom an order has been made under sub-section (*1*) or on the last ground stated in sub-section (*2*) of section 5, is released from the superintendence of the Court of Wards, such land-holder shall not be competent, without the previous sanction of the Local Government, to alienate the whole or any part of the immoveable property which has been so released, in any way, or to create any charge upon any such property extending beyond his lifetime, and every transfer made or attempted to be made, or charge created or attempted to be created, in contravention of this provision, shall be void.

(*2*) No suit shall be brought whereby to charge any person upon any promise made after he has ceased to be a ward to pay any debt contracted during the period when he was a ward, or upon any ratification made after he has ceased to be a ward of any promise or contract made during the above period, whether there shall or shall not be any new consideration for such promise or ratification.

Power of the Court of Wards to act on behalf of wards and to deal with their properties.

17. (*1*) The Court of Wards may, at any time, mortgage or sell the whole or any part of the property of a ward, and may grant leases or farms of the whole or any part of such property for such terms as it thinks fit, and may make such remissions of rental or other arrears and may generally and from time to time pass all such orders and do all such acts, not inconsistent with the provisions of this or any other enactment for the time being in force, as it may deem to be for the advantage of the ward or the benefit of his property.

(*2*) The Court of Wards may, for the purpose of raising a loan for the benefit of a ward or his property, hypothecate, with the consent of the Local Government, any *jágír*, *muáfi*, pension or assignment of land revenue held by the ward.

Deeds and other instruments.

18. (*1*) All deeds, contracts or other instruments executed by the Court of Wards in the exercise of its powers of superintendence under this Act, shall be executed by the Court of Wards in its own name.

(*2*) Covenants entered into by the Court of Wards shall be binding on the Court of Wards only so long as the ward or the property affected by such covenants remains under its superintendence and only to the extent of such property; and such covenants shall be binding on the ward or on the person entitled to such property after the ward or the property or both (as the case may be) shall have been released from superintendence.

(*3*) This section shall also apply to all deeds, contracts and other instruments executed before the commencement of this Act.

Notice of suit.

19. No suit relating to the person of any ward or to any property under the superintendence of the Court of Wards shall be instituted in any Civil or Revenue Court until the expiration of two months after notice in writing has been delivered to, or left at, the office of the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9, stating the name and place of abode of the intending plaintiff, the cause of action, and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left:

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under section 9.

Suits to be in name of Court of Wards.

20. (*1*) No suit (*a*) by or on behalf of a ward, or (*b*) affecting any property under the superintendence of the Court of Wards shall be brought without the authority of the Court of Wards or of such officer as it may appoint in that behalf, and

in every such suit brought with such authority the Court of Wards shall be named as plaintiff.

(*2*) In every suit against a ward or affecting property under the superintendence of Court of Wards the Court of Wards shall be named as the defendant.

(*3*) Suits brought by or against any Court of Wards may be instituted and conducted or defended on behalf of the Court of Wards by the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9, or by the manager or other person authorised, by general or special order or rule made under this Act, in that behalf, by the Court of Wards.

CHAPTER V.

GENERAL PROVISIONS AS TO THE SUPERINTENDENCE OF THE PERSONS AND PROPERTIES OF WARDS.

Court of Wards assuming superintendence of the property to take possession thereof. Procedure as to property situate in other districts.

21. As soon as conveniently may be after the assumption, by the Court of Wards, of the superintendence of the property of any person, the Deputy Commissioner of every district within which any part of such property may be situated, or some person authorised, in writing, by him in this behalf, shall take possession of all such property and all accounts and papers relating thereto, and shall do all other acts and things which may be necessary to secure and protect the same and place it under proper custody and control.

Powers of Court of Wards as to superintendence and control. Audit of accounts and management of legal affairs of wards and proporties.

22. The Court of Wards may from time to time direct such provision as it may think fit to be made in respect of the—

(*1*) superintendence and supervision of the persons of the wards and properties under its superintendence;

(*2*) periodical or special audit, by an independent auditor, of the accounts of properties generally, or of any particular property, as it may think fit;

(*3*) management of the legal affairs of properties generally, or of any particular property, as it may think fit.

Power of Court of Wards to charge expenses against properties under its superintendence.

23. The Court of Wards may from time to time regulate the expenses to be incurred in the supervision, care and management of the wards and properties under its superintendence, and generally in carrying out all or any of the purposes of this Act, and may order that such expenses, or any of them, including all salaries, gratuities and leave allowances of establishments and all contingent and other expenses whatsoever which it shall consider requisite, be charged against such property generally, or against any one or more properties comprised in such property for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred.

Residence and education of wards.

24. (*1*) The Court of Wards may pass such orders as it thinks fit in respect of the residence of any ward whose person is for the time being under its superintendence, and, when he is a male minor, in respect of his education.

(*2*) The Court of Wards may from time to time require any such male minor ward to attend such tutor, class, school or college, for the purposes of education, as it thinks fit.

Allowance for ward and his family.

25. (*1*) The Court of Wards may from time to time determine what sums shall be allowed in respect of the expenses of any ward and of his family and dependents.

(*2*) The Court of Wards may from time to time determine what sums may be spent on the education of any minor ward whose person is for the time being under its superintendence.

CHAPTER VI.

ASCERTAINMENT AND LIQUIDATION OF LIABILITIES OF WARDS.

Notice to claimants.

26. (*1*) On the publication of a notification under section 9, the Deputy Commissioner of the District specified in the order of assumption or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf, shall publish in the Gazette a notice, in both the English and the Urdu languages, calling upon all persons having claims against the ward or against the property under the superintendence of the Court of Wards to notify the same in writing to such Deputy Commissioner within six months from the date of the publication of the notice.

(*2*) The notice may also be published at such places and in such other manner as the Court of Wards may, by general or special order, direct or by rule, made under this Act, prescribe.

(3) The Deputy Commissioner may, if he is satisfied that any claimant had reasonable excuse for not submitting his statement of claim within six months, receive his claim at any time after the expiry of the period aforesaid, but any claim so received shall, unless the Deputy Commissioner otherwise directs and notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid.

Presentation of claims.

27. (1) Every claimant shall, together with his statement of claim, present full particulars thereof.

(2) Every document (including entries in books of account) on which the claimant founds his claim, or on which he relies in support thereof, shall be produced before the Deputy Commissioner with the statement of claim.

(3) Every such document shall be accompanied by a true copy of the same. The Deputy Commissioner, or such officer as he may appoint in that behalf, shall mark the original document for the purpose of identification, and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

Examination into, admission and rejection of, claims.

28. (1) The Deputy Commissioner shall, after such inquiry as he may consider necessary, decide, as to each claim made against any ward or property, in manner in section 26 and section 27 provided, whether such claim is, either in whole or in part, to be admitted or disallowed, and shall intimate, in writing, his decision in respect of each such claim to the claimant thereof. If such liabilities cannot be paid at once the decision shall fix the interest (if any) to be paid thereon from the date of such decision to the date of the payment and discharge of such claim.

Bar of claims not duly notified.

29. Every debt or liability (other than debts due to, or liabilities incurred in favour of, the Government) to which any ward is subject, or with which any property under the superintendence of the Court of Wards or any part thereof is charged, and which is not duly notified to the said Deputy Commissioner within the time and in the manner hereinbefore prescribed, shall, subject to the provisions of section 7 and section 13 of the Indian Limitation Act, 1877, be deemed for all purposes and on all occasions, whether during the continuance of the superintendence of the Court of Wards or afterwards, to have been duly discharged:

India Act XV of 1877.

Provided that the provisions of this section shall not be deemed to extinguish any such debt or liability in any case in which the Court of Wards, after assuming the superintendence of such property, releases the same from such superintendence without ascertaining and dealing with the liabilities thereof as in this chapter provided in that behalf, and that, in any such case, in computing the period of limitation applicable to any suit or application for the recovery of any such debt or the enforcement of any such liability, the time from the date of the notification of claim under section 25, to the date of the release of the property from the superintendence of the Court of Wards, shall be excluded.

Exclusion of documents not produced.

30. If any document in the possession or under the control of the claimant is not produced by him as required by section 27, such document shall not be admissible in evidence in any suit or proceeding thereafter brought against a ward or as affecting any property under the superintendence of the Court of Wards by the claimant, or by any person claiming under him.

Decrees against wards or their properties and their execution.

31. (1) Nothing contained in this chapter shall be deemed to empower the Deputy Commissioner to disallow any claim, notified under section 26, which is based upon a decree passed by any competent Court, and any such decree may be proved by the production of a certified copy of the same accompanied by a certificate from the proper Court that such decree remains unsatisfied.

(2) On the publication of a notice under section 26, all suits and all proceedings in execution of any decree against a ward or as affecting any property under the superintendence of the Court of Wards then pending in any Civil Court shall be stayed until the plaintiff or the decree-holder files a certificate that the claim has been notified in accordance with section 26.

(3) No fresh proceedings in execution of any decree against a ward or as affecting such property, other than a decree in respect of a transaction subsequent to the date of the notification under section 9, shall be instituted in, nor shall any attachment or other process in execution of such decree be issued by, any Civil Court, until the decree-holder files a certificate to the effect specified in clause (2).

Saving of right to sue in certain cases.

32. (1) Subject to the provisions of section 19 and section 31, nothing in this chapter shall be construed as preventing any claimant from bringing or prosecuting any suit, in any competent Court, in respect of any claim which has been duly notified, within the time and in the manner hereinbefore prescribed, to the Deputy Commissioner, and which has, whether in whole or in part, been disallowed by him, but

no suit shall at any time be brought or be maintainable in respect of any claim which has not been so notified or to set aside or modify the order of a Deputy Commissioner (if any) fixing a date for the payment of such claim or regulating the order on which claims against the ward or properties under the superintendence of the Court of Wards shall be paid.

(2) In computing any period of limitation prescribed by the Indian Limitation Act, 1877, or section 230 of the Civil Procedure Code, every period during which proceedings have been stayed or temporarily barred by reasons of the provisions of this section or of section 31 shall be excluded.

India Act XV of 1877.
India Act XIV of 1882.

33. No appeal shall lie from any decision given or order made by a Deputy Commissioner under this chapter, but nothing in this section shall be deemed in any way to limit or interfere with the power of the Court of Wards to revise any such decision or order.

Appeal and revision.

34. For the purposes of this chapter, the Local Government may, at any time or at any stage of any proceedings thereunder, invest any person with all or any of the powers of a Deputy Commissioner.

Local Government may confer the powers of Deputy Commissioner on any person.

CHAPTER VII.

GUARDIANS AND MANAGERS.

35. (1) The Court of Wards may from time to time appoint guardians for the care of the persons of such wards as are minors or of unsound mind, or are suffering from any physical or mental defect or infirmity, or are females and unmarried, and may control and remove such guardians, and no appointment of a guardian for any ward shall be valid unless and until it has been confirmed by the Court of Wards.

Appointment, removal and control of guardians and tutors.

(2) In appointing a guardian under this section, the Court of Wards shall be guided, as far as may be, by the provisions of section 17 of the Guardians and Wards Act, 1890, and if a ward leaves or is removed from the custody of a guardian appointed under this section, the Deputy Commissioner of the District specified in the notification issued under section 9 may exercise the powers conferred by section 25 of the said Act on a Court as defined in that Act.

India Act VIII of 1890.

(3) The Court of Wards may appoint any person to be the tutor of any minor male ward and may control and remove such tutor. Every tutor so appointed shall discharge such duties and regulate his conduct in such manner as the Court of Wards may from time to time direct.

36. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian; but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

No person who can succeed to ward to be appointed guardian.

37. A guardian appointed under this chapter shall be charged with the custody of the ward, and shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made, under this Act, in that behalf, make suitable provision for his maintenance, health and, if he be a minor, his education and such other matters as the personal law to which the ward is subject, requires and shall—

Duties and responsibilities of guardians.

(a) give such security, if any, as the Court of Wards thinks fit for the due performance of his duty;

(b) submit such accounts as the Court of Wards may direct;

(c) pay the balances due from him thereon;

(d) continue liable to account to the Court of Wards, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;

(e) apply for the sanction of the Court of Wards to any act which may involve expense not previously sanctioned by it; and

(f) be entitled to such salary or allowance, to be paid out of the proceeds of the property of the ward, as the Court of Wards thinks fit, in respect of the execution of his duties as such.

38. The Court of Wards may appoint one or more managers for any properties under its superintendence and may control and remove such managers.

Appointment, control and removal of managers.

39. A manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made, under this Act, in that behalf, have power to collect the rents of the lands placed under his charge as well as all other money due to the ward or person whose property he manages, and to grant receipts therefor; and he may, subject to the same supervision, direction and rules (if any), grant and renew leases and farms, and do all such lawful acts as he may be generally or specially authorised by the Court of Wards to do for the good management of the property.

Powers of managers.

Duties and responsibilities of managers.

40. Every manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and to the rules (if any) made, under this Act, in that behalf, manage the property or properties placed under his charge diligently and faithfully, and he shall—

(*a*) give such security, if any, as the Court of Wards thinks fit, duly to account for what he may receive in respect of the rents and profits and other income of the property under his charge;

(*b*) keep accounts in such form and submit them at such times as the Court of Wards may direct;

(*c*) deal with all money received by him in such manner as the Court of Wards may direct;

(*d*) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by it;

(*e*) be entitled to such salary or allowance, to be paid out of the proceeds of such property, as the Court of Wards thinks fit, in respect of the execution of his duties;

(*f*) be responsible for any loss occasioned to the property by his negligence or wilful default; and

(*g*) continue liable to account to the Court of Wards after he has ceased to be manager for his receipts and disbursements during the period of his management.

Termination of appointment of guardian or manager.

41. The appointment of every guardian or manager appointed under this chapter, shall terminate on the Court of Wards ceasing to exercise superintendence of the person or property in respect of whom or which such guardian or manager, as the case may be, has been appointed.

Guardians and managers to be deemed to be public servants and managers and certain guardians to be deemed to be public accountants.

India Act XLV of 1860.

42. (*1*) Every guardian and manager appointed under this chapter shall be deemed to be a 'public servant' within the meaning of section 21 of the Indian Penal Code and for the purposes of that Code.

India Act XII of 1850.

Ibid.

(*2*) Every such manager shall be deemed to be a 'public accountant' within the meaning of the Public Accountants Act, 1850, and every such guardian shall be deemed to be a 'public accountant' within the meaning and for the purposes of sections 3 to 5 of the Public Accountants Act, 1850.

(*3*) In the definition of 'legal remuneration' contained in section 161 of the Indian Penal Code, the word 'Government' shall, for the purposes of this section, be deemed to include the Court of Wards.

Deputy Commissioner when to discharge the duties of guardian or manager.

43. If no such guardian or manager is appointed by the Court of Wards, the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9 or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf, shall be competent to do anything that might be lawfully done by a guardian of the person or a manager of the property appointed under this chapter.

CHAPTER VIII.

RELEASE OF PERSONS AND PROPERTIES FROM SUPERINTENDENCE.

Power to release from superintendence.

44. The Court of Wards may, at any time, release any person or property, or both, from its superintendence:

Provided that the property of a land-holder who has been made a ward in accordance with an order made under section 5, shall not be released from the superintendence of the Court of Wards without the previous sanction of the Local Government:

Provided, further, that persons or property under the charge of the Court of Wards in accordance with the provisions of sub-section (*2*) of section 7, shall not be released without the concurrence of the Court which appointed or declared the Deputy Commissioner to be guardian of the person or property, or both, of the person concerned, under the Guardians and Wards Act, 1890. India Act VIII of 1890.

Retention of superintendence of property until discharge of debts.

45. (*1*) Whenever a ward dies or ceases to be under any legal incapacity, and his property is, at the time of his death or cessation of incapacity, still encumbered with debts and liabilities, the Court of Wards may either release such property or, with the sanction of the Local Government, retain it or any part thereof under its superintendence until such debts and liabilities have been discharged.

(*2*) In any case provided for in sub-section (*1*) the Court of Wards may together with the property of any such ward also retain, until the said debts and liabilities have been discharged, the property of which it has assumed the superintendence under section 8.

46. If, in the case of any property, there are more proprietors than one, the Court of Wards may retain the whole property under its superintendence if one or more of the proprietors remain wards, although other or others may have ceased to be under any legal incapacity :

Retention of superintendence where there are more proprietors than one.

Provided that in such cases a proprietor who have ceased to be disqualified shall not, after the cessation of such disqualification, be deemed to be a ward for the purposes of this Act and the Court of Wards shall pay to such proprietor the surplus income accruing from his share of the joint property.

47. (1) When the Court of Wards decides to release from its superintendence the person or property, or both, of any minor, it may, before such release, by an order in writing, appoint any person to be the guardian of the person or property, or both, of such minor.

Appointment of guardian on release of minor.

(2) Such appointment shall take effect from the date of such release.

(3) In appointing a guardian under this section the Court of Wards shall be guided by the provisions of section 17 of the Guardians and Wards Act, 1890, and in every such case the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9 shall have the powers conferred upon a Deputy Commissioner under section 35 (2).

India Act VIII of 1890

(4) Every such guardian shall have and be subject to the same rights, duties and liabilities as if he had been appointed under the Guardians and Wards Act, 1890.

Ibid

48. Whenever, in the event of the death of any person of whose property the Court of Wards has assumed superintendence, the succession to his property, or any part thereof, is unclaimed or disputed, the Court of Wards may either direct that the property, or part thereof, be made over to any person entitled to or claiming the same, or may institute a suit of interpleader against the several claimants, or may retain the superintendence thereof until a claimant has, in due course of law, established his title thereto in a competent Court.

Disposal of property after the death of a person of whose property the Court of Wards has assumed superintendence.

49. Whenever the Court of Wards releases the property of any person from its superintendence, it shall deliver to such person or if it has appointed a guardian under sub-section (1) of section 47, to such guardian all documents of title and all papers and accounts (other than Government records) relating to such property.

Delivery of documents and accounts on release of property.

50. Whenever the Court of Wards releases any person or property from its superintendence, the fact of such release shall be notified in the Gazette, and such release shall take effect from the date fixed in this behalf in the notification.

Notification as to release from superintendence.

51. Any expense incurred by the Court of Wards on account of any property under its superintendence may, after the release of such property, be recovered as an arrear of land-revenue due in respect of such property or any part thereof.

Recovery of expenses.

CHAPTER IX.

MISCELLANEOUS PROVISIONS.

52. (1) No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act.

Bar of suits and proceedings.

(2) No suit shall be brought against any officer of Government or any guardian, manager or servant appointed by and discharging his duties under a Court of Wards for anything done by him in good faith under this Act.

53. Every investigation conducted by a Deputy Commissioner with reference to any claim preferred before him under Chapter VI or Chapter VII or to any matter connected with any such claim shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Investigations into matters under Chapters VI and VII to be considered judicial proceedings.

54. The Court of Wards may, with the previous sanction of the Local Government, make rules consistent with this Act regulating all or any of the following matters, namely,—

Power to make rules

(a) the management of properties or of all or any property under the superintendence of the Court of Wards;

(b) the procedure to be observed and the powers to be exercised by all or any persons in all or any proceedings under this Act ; and

(c) generally for the purpose of giving effect to all or any of the provisions of this Act.

SCHEDULE.

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
XXVI of 1854	Education of male minors subject to the superintendence of the Court of Wards.	The whole so far as it applies to the Punjab.
IV of 1872 ...	The Punjab Laws Act, 1872.	Sections 34, 38, inclusive.
XII of 1887 ...	Amendment of the Punjab Laws Act, 1872.	Sections 3 and 4.

C. J. HALLIFAX,

Secy. to Govt., Punjab Home (Legislative) Department.

Punjab Government Press, Lahore—2-7-03—715.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JULY 9, 1903.

PART V.

Acts of the Lieutenant-Governor of the Punjab in Council which have received the assent of His Excellency the Governor-General in Council,

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[Third publication.]

THE following Act of the Lieutenant-Governor of the Punjab in Council received the assent of His Honour the Lieutenant-Governor on the 2nd June 1903, and that of His Excellency the Viceroy and Governor-General in Council on the 12th June 1903, and is hereby promulgated for general information :—

PUNJAB ACT No. II OF 1903.

(Assent of the Governor-General first published in the Gazette of 25th June 1903.)

*An Act to consolidate and amend the law relating to the Court of Wards in the **Punjab**.*

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the Punjab; it is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, and extent.

1. (*1*) This Act may be called the Punjab Court of Wards Act, 1903.

(*2*) It extends to the whole of the Punjab.

Repeal.

2. (*1*) The enactments specified in the schedule are hereby repealed to the extent mentioned in the third column thereof.

(*2*) But all rules and appointments made, notifications and orders issued, authorities and powers conferred, farms and leases granted, rights acquired, liabilities incurred and other things done under any of those enactments shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, acquired, incurred and done under this Act.

(*3*) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or the corresponding portion thereof.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context, the expression—

(*a*) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but shall not include growing crops or grass;

(*b*) "land-holder" shall mean a person who possesses any interest in land, whether as proprietor, assignee of the land-revenue, lessee of waste lands or otherwise :

Indian Act IX of 1875.

(c) "minor" shall mean a person who has not, within the meaning of the Indian Majority Act, 1875, attained his majority; and

(d) "ward" shall mean any person in respect of whose person, or the whole or any part of whose property, or of whose person, and property, the Court of Wards by this Act constituted for the time being has assumed superintendence, but shall not include a joint-proprietor the superintendence of whose property has been assumed by the Court of Wards under section 8.

CHAPTER II.

THE COURT OF WARDS AND ITS JURISDICTION.

Constitution of the Court of Wards and its jurisdiction.

4 (1) The Financial Commissioner shall be the Court of Wards for the Punjab.

(2) The Court of Wards may exercise all or any of the powers conferred on it by this Act either direct or through the Commissioner of the Division or the Deputy Commissioner of the District within the limits of which any ward may at any time reside or any part of the property of any ward may be situate, or through any other person whom it may at any time, in respect of any ward or the whole or any part of the property of any ward, appoint in that behalf.

(3) The Court of Wards may, with the sanction of the Local Government, from time to time, by general or special order, or by rule made under this Act, delegate any of its powers to any Commissioner or Deputy Commissioner or other person as aforesaid, and may at any time, with the like sanction, revoke any such delegation.

(4) The powers and authority by this Act vested in the Court of Wards shall be exercised by it subject to the control of the Local Government.

Power of Local Government to make order, in certain cases, directing the Court of Wards to assume superintendence of properties of land-holders.

5. (1) Any land-holder may apply to the Local Government to make an order directing that his property be placed under the superintendence of the Court of Wards, and, upon receiving any such application, the Local Government may, if it considers it expedient in the public interest so to do, make an order accordingly.

(2) When it appears to the Local Government that any land-holder is—

(a) by reason of being a female; or

(b) owing to any physical or mental defect or infirmity; or

(c) owing to his having been convicted of a non-bailable offence and to his vicious habits or bad character; or

(d) owing to his having entered upon a course of wasteful extravagance likely to dissipate his property;

incapable of managing or unfitted to manage his affairs, the Local Government may make an order directing that the property of such land-holder be placed under the superintendence of the Court of Wards:

Provided that such an order shall not be made on the ground stated in clause (c) or on the ground stated in clause (d) unless such land-holder belongs to a family of political or social importance and the Local Government is satisfied that it is desirable, on grounds of public policy or general interest, to make such order.

(3) Every order made by the Local Government under sub-section (1) or sub-section (2), shall be final and shall not be called in question in any Court of Law.

Power of Court of Wards, of its own motion, to assume superintendence.

6. When any land-holder is a minor or a person adjudged by a competent Court to be of unsound mind and incapable of managing his affairs, the Court of Wards may make an order assuming the superintendence of the property, or the person and property of such land-holder.

Court of Wards shall assume superintendence in cases in which an order is made under section 5 and may do so when Collector is appointed guardian under Act VIII of 1890.

7. (1) When, in respect of any land-holder, an order is made by the Local Government under sub-section (1) or sub-section (2) of section 5, the Court of Wards shall assume the superintendence of the property of such land-holder, and, may in its discretion also assume the superintendence of his person.

(2) When the Deputy Commissioner is appointed or declared to be guardian of the person or property, or both, of a minor, under the provisions of section 18 of the Guardian and Wards Act, 1890, he shall intimate the fact to the Court of Wards, and the Court of Wards may thereupon, in its discretion, either assume, or refrain from assuming, the superintendence of the person or property, or both (as the case may be), of such minor, and the provisions of this Act shall, if such superintendence be so assumed, apply to the person or property, or both (as the case may be), of such minor. India Act VIII of 1890.

Properties of which there are more proprietors than one.

8. When there are two or more proprietors of any property and the shares of the several proprietors have not been separated off, and the Court of Wards, acting

under section 6 or section 7, assumes the superintendence of the property of one or more, but not all, of such proprietors, the Court of Wards may assume the superintendence also of the shares of such joint-proprietor or joint-proprietors as is or are not disqualified, paying any such proprietor the surplus income accruing from his share of the property. The superintendence assumed under this section shall extend only to the management of the share of the joint-proprietor in such joint property and shall not as regards such share include the power to sell or mortgage the same or any part thereof or to grant a lease thereof for a period exceeding 20 years or to create any charge thereon or interest therein.

Notification of assumption of superintendence.

9. Whenever the Court of Wards assumes the superintendence of the person or property of any person under any of the provisions of this Act, the order of assumption shall be notified in the Gazette, and shall specify the district the Deputy Commissioner of which shall be put in charge on behalf of the Court of Wards.

Operation and finality of orders made under sections 6, 7 and 8.

10. Every order made by the Court of Wards assuming, under sections 6, 7 and 8, respectively, the superintendence of the person or property, or both, of any person shall take effect from the date fixed in this behalf in the notification published under section 9, and shall be final and shall not be called in question in any Court of Law.

CHAPTER III.

INQUIRY AND ACTION PRECEDING ASSUMPTION OF SUPERINTENDENCE.

Inquiry by Deputy Commissioner in order to satisfy himself as to whether action should be taken under the Act.

11. (*1*) For the purpose of satisfying himself as to whether, in respect of any land-holder,—

(*a*) the Local Government should be moved to make an order under sub-section (*2*) of section 5, or

(*b*) the Court of Wards should be moved to make an order under section 6,

or for the purpose of making any report which may be called for in connection with any application of a land-holder under sub-section (*1*) of section 5, the Deputy Commissioner may make such inquiry into the circumstances of such land-holder as he may deem necessary, and, pending the taking of any such action, may issue such orders for the temporary custody and protection of the person or property, or both, of such land-holder, as he thinks fit.

(*2*) If the land-holder be a minor, the Deputy Commissioner may direct that the person, if any, then having the custody of the minor, shall produce him, or cause him to be produced, at such place and time as the Deputy Commissioner appoints, and may make such order for the future custody of the minor, pending the orders of the Court of Wards, as he thinks proper.

(*3*) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (*2*) shall require her to be produced in accordance with the manners and customs of the country.

(*4*) If the land-holder is alleged to be or is of unsound mind, the Deputy Commissioner shall make application to a competent Court in view to an inquiry being made by such Court for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs.

Procedure in inquiries.

12. (*1*) For the purposes of every inquiry to be made, or direction to be given, in pursuance of any of the provisions of this Act, the Deputy Commissioner may exercise all or any of the powers of a Civil Court under the Code of Civil Procedure. India Act XIV

(*2*) For the purpose of protecting the property, or any part thereof, of any land-holder, pending an inquiry under sub-section (*1*) of section 11, the Deputy Commissioner may, subject to the direction and control of the Court of Wards, take possession thereof and appoint a manager and such care-takers in respect thereto as he may deem fit.

CHAPTER IV

WARDSHIP AND ITS CONSEQUENCES.

Vesting of property of ward in the Court of Wards.

13. (*1*) Upon the publication of a notification under section 9, in respect of the property of any person, the whole of such property, at the date of the notification, shall vest in the Court of Wards, and shall remain so vested until the Court of Wards shall, by notification under section 50, divest itself of the superintendence of the whole or any part thereof, or is otherwise divested of such superintendence in due course of law.

(*2*) All rights accruing to and property inherited by or vesting in any ward after the publication of a notification under section 9, and while the property of such ward is under the superintendence of the Court of Wards, shall vest in the Court of Wards:

Provided that the Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which any ward may acquire, otherwise than by inheritance, subsequent to the date of the notification published under section 9.

14. No land under the superintendence of the Court of Wards shall be sold for arrears of revenue accruing while such land is under such superintendence.

Non-liability of land vested in the Court of Wards to sale for arrears of revenue.

Disabilities of wards.

15. No ward shall be competent—

(a) to transfer or create any charge on, or interest in, the whole or any part of his property which is under the superintendence of the Court of Wards, or to enter into any contract which may involve him in pecuniary liability:

Provided that nothing in this clause shall be deemed to affect the capacity of a ward to enter into a contract of marriage: but he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable;

(b) without the previous sanction, in writing, of the Court of Wards, (1) to adopt, or (2) to give permission to adopt, or (3) to dispose of any property by will.

16. (1) When the property of any land-holder, in respect of whom an order has been made under sub-section (1) or on the last ground stated in sub-section (2) of section 5, is released from the superintendence of the Court of Wards, such land-holder shall not be competent, without the previous sanction of the Local Government, to alienate the whole or any part of the immoveable property which has been so released, in any way, or to create any charge upon any such property extending beyond his lifetime, and every transfer made or attempted to be made, or charge created or attempted to be created, in contravention of this provision, shall be void.

Continuing disabilities in certain cases.

(2) No suit shall be brought whereby to charge any person upon any promise made after he has ceased to be a ward to pay any debt contracted during the period when he was a ward, or upon any ratification made after he has ceased to be a ward of any promise or contract made during the above period, whether there shall or shall not be any new consideration for such promise or ratification.

17. (1) The Court of Wards may, at any time, mortgage or sell the whole or any part of the property of a ward, and may grant leases or farms of the whole or any part of such property for such terms as it thinks fit, and may make such remissions of rental or other arrears and may generally and from time to time pass all such orders and do all such acts, not inconsistent with the provisions of this or any other enactment for the time being in force, as it may deem to be for the advantage of the ward or the benefit of his property.

Power of the Court of Wards to act on behalf of wards and to deal with their properties.

(2) The Court of Wards may, for the purpose of raising a loan for the benefit of a ward or his property, hypothecate, with the consent of the Local Government, any *jágír*, *muáfi*, pension or assignment of land revenue held by the ward.

18. (1) All deeds, contracts or other instruments executed by the Court of Wards in the exercise of its powers of superintendence under this Act, shall be executed by the Court of Wards in its own name.

Deeds and other instruments.

(2) Covenants entered into by the Court of Wards shall be binding on the Court of Wards only so long as the ward or the property affected by such covenants remains under its superintendence and only to the extent of such property; and such covenants shall be binding on the ward or on the person entitled to such property after the ward or the property or both (as the case may be) shall have been released from superintendence.

(3) This section shall also apply to all deeds, contracts and other instruments executed before the commencement of this Act.

19. No suit relating to the person of any ward or to any property under the superintendence of the Court of Wards shall be instituted in any Civil or Revenue Court until the expiration of two months after notice in writing has been delivered to, or left at, the office of the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9, stating the name and place of abode of the intending plaintiff, the cause of action, and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left:

Notice of suit.

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under section 9.

20. (1) No suit (a) by or on behalf of a ward, or (b) affecting any property under the superintendence of the Court of Wards shall be brought without the authority of the Court of Wards or of such officer as it may appoint in that behalf, and

Suits to be in name of Court of Wards.

in every such suit brought with such authority the Court of Wards shall be named as plaintiff.

(2) In every suit against a ward or affecting property under the superintendence of Court of Wards the Court of Wards shall be named as the defendant.

(3) Suits brought by or against any Court of Wards may be instituted and conducted or defended on behalf of the Court of Wards by the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9, or by the manager or other person authorised, by general or special order or rule made under this Act, in that behalf, by the Court of Wards.

CHAPTER V.

GENERAL PROVISIONS AS TO THE SUPERINTENDENCE OF THE PERSONS AND PROPERTIES OF WARDS.

Court of Wards assuming superintendence of the property to take possession thereof. Procedure as to property situate in other districts.

21. As soon as conveniently may be after the assumption, by the Court of Wards, of the superintendence of the property of any person, the Deputy Commissioner of every district within which any part of such property may be situated, or some person authorised, in writing, by him in this behalf, shall take possession of all such property and all accounts and papers relating thereto, and shall do all other acts and things which may be necessary to secure and protect the same and place it under proper custody and control.

Powers of Court of Wards as to superintendence and control. Audit of accounts and management of legal affairs of wards and properties.

22. The Court of Wards may from time to time direct such provision as it may think fit to be made in respect of the—

(1) superintendence and supervision of the persons of the wards and properties under its superintendence;

(2) periodical or special audit, by an independent auditor, of the accounts of properties generally, or of any particular property, as it may think fit;

(3) management of the legal affairs of properties generally, or of any particular property, as it may think fit.

Power of Court of Wards to charge expenses against properties under its superintendence.

23. The Court of Wards may from time to time regulate the expenses to be incurred in the supervision, care and management of the wards and properties under its superintendence, and generally in carrying out all or any of the purposes of this Act, and may order that such expenses, or any of them, including all salaries, gratuities and leave allowances of establishments and all contingent and other expenses whatsoever which it shall consider requisite, be charged against such property generally, or against any one or more properties comprised in such property for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred.

Residence and education of wards.

24. (1) The Court of Wards may pass such orders as it thinks fit in respect of the residence of any ward whose person is for the time being under its superintendence, and, when he is a male minor, in respect of his education.

(2) The Court of Wards may from time to time require any such male minor ward to attend such tutor, class, school or college, for the purposes of education, as it thinks fit.

Allowance for ward and his family.

25. (1) The Court of Wards may from time to time determine what sums shall be allowed in respect of the expenses of any ward and of his family and dependents.

(2) The Court of Wards may from time to time determine what sums may be spent on the education of any minor ward whose person is for the time being under its superintendence.

CHAPTER VI.

ASCERTAINMENT AND LIQUIDATION OF LIABILITIES OF WARDS.

Notice to claimants.

26. (1) On the publication of a notification under section 9, the Deputy Commissioner of the District specified in the order of assumption or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf, shall publish in the Gazette a notice, in both the English and the Urdu languages, calling upon all persons having claims against the ward or against the property under the superintendence of the Court of Wards to notify the same in writing to such Deputy Commissioner within six months from the date of the publication of the notice.

(2) The notice may also be published at such places and in such other manner as the Court of Wards may, by general or special order, direct or by rule, made under this Act, prescribe.

(3) The Deputy Commissioner may, if he is satisfied that any claimant had reasonable excuse for not submitting his statement of claim within six months, receive his claim at any time after the expiry of the period aforesaid, but any claim so received shall, unless the Deputy Commissioner otherwise directs and notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid.

Presentation of claims.

27. (1) Every claimant shall, together with his statement of claim, present full particulars thereof.

(2) Every document (including entries in books of account) on which the claimant founds his claim, or on which he relies in support thereof, shall be produced before the Deputy Commissioner with the statement of claim.

(3) Every such document shall be accompanied by a true copy of the same. The Deputy Commissioner, or such officer as he may appoint in that behalf, shall mark the original document for the purpose of identification, and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

Examination into, admission and rejection of, claims.

28. (1) The Deputy Commissioner shall, after such inquiry as he may consider necessary, decide, as to each claim made against any ward or property, in manner in section 26 and section 27 provided, whether such claim is, either in whole or in part, to be admitted or disallowed, and shall intimate, in writing, his decision in respect of each such claim to the claimant thereof. If such liabilities cannot be paid at once the decision shall fix the interest (if any) to be paid thereon from the date of such decision to the date of the payment and discharge of such claim.

Bar of claims not duly notified.

29. Every debt or liability (other than debts due to, or liabilities incurred in favour of, the Government) to which any ward is subject, or with which any property under the superintendence of the Court of Wards or any part thereof is charged, and which is not duly notified to the said Deputy Commissioner within the time and in the manner hereinbefore prescribed, shall, subject to the provisions of section 7 and section 13 of the Indian Limitation Act, 1877, be deemed for all purposes and on all occasions, whether during the continuance of the superintendence of the Court of Wards or afterwards, to have been duly discharged:

India Act XV of 1877.

Provided that the provisions of this section shall not be deemed to extinguish any such debt or liability in any case in which the Court of Wards, after assuming the superintendence of such property, releases the same from such superintendence without ascertaining and dealing with the liabilities thereof as in this chapter provided in that behalf, and that, in any such case, in computing the period of limitation applicable to any suit or application for the recovery of any such debt or the enforcement of any such liability, the time from the date of the notification of claim under section 26, to the date of the release of the property from the superintendence of the Court of Wards, shall be excluded.

Exclusion of documents not produced.

30. If any document in the possession or under the control of the claimant is not produced by him as required by section 27, such document shall not be admissible in evidence in any suit or proceeding thereafter brought against a ward or as affecting any property under the superintendence of the Court of Wards by the claimant, or by any person claiming under him.

Decrees against wards or their properties and their execution.

31. (1) Nothing contained in this chapter shall be deemed to empower the Deputy Commissioner to disallow any claim, notified under section 26, which is based upon a decree passed by any competent Court, and any such decree may be proved by the production of a certified copy of the same accompanied by a certificate from the proper Court that such decree remains unsatisfied.

(2) On the publication of a notice under section 26, all suits and all proceedings in execution of any decree against a ward or as affecting any property under the superintendence of the Court of Wards then pending in any Civil Court shall be stayed until the plaintiff or the decree-holder files a certificate that the claim has been notified in accordance with section 26.

(3) No fresh proceedings in execution of any decree against a ward or as affecting such property, other than a decree in respect of a transaction subsequent to the date of the notification under section 9 shall be instituted in, nor shall any attachment or other process in execution of such decree be issued by, any Civil Court, until the decree-holder files a certificate to the effect specified in clause (2).

Saving of right to sue in certain cases.

32. (1) Subject to the provisions of section 19 and section 31, nothing in this chapter shall be construed as preventing any claimant from bringing or prosecuting any suit, in any competent Court, in respect of any claim which has been duly notified, within the time and in the manner hereinbefore prescribed, to the Deputy Commissioner, and which has, whether in whole or in part, been disallowed by him, but

no suit shall at any time be brought or be maintainable in respect of any claim which has not been so notified or to set aside or modify the order of a Deputy Commissioner (if any) fixing a date for the payment of such claim or regulating the order on which claims against the ward or properties under the superintendence of the Court of Wards shall be paid.

India Act XV of 1877. India Act XIV of 1882. (2) In computing any period of limitation prescribed by the Indian Limitation Act, 1877, or section 230 of the Civil Procedure Code, every period during which proceedings have been stayed or temporarily barred by reasons of the provisions of this section or of section 31 shall be excluded.

Appeal and revision.

33. No appeal shall lie from any decision given or order made by a Deputy Commissioner under this chapter, but nothing in this section shall be deemed in any way to limit or interfere with the power of the Court of Wards to revise any such decision or order.

Local Government may confer the powers of Deputy Commissioner on any person.

34. For the purposes of this chapter, the Local Government may, at any time or at any stage of any proceedings thereunder, invest any person with all or any of the powers of a Deputy Commissioner.

CHAPTER VII.

GUARDIANS AND MANAGERS.

Appointment, removal and control of guardians and tutors.

35. (1) The Court of Wards may from time to time appoint guardians for the care of the persons of such wards as are minors or of unsound mind, or are suffering from any physical or mental defect or infirmity, or are females and unmarried, and may control and remove such guardians, and no appointment of a guardian for any ward shall be valid unless and until it has been confirmed by the Court of Wards.

(2) In appointing a guardian under this section, the Court of Wards shall be guided, as far as may be, by the provisions of section 17 of the Guardians and Wards Act, 1890, and if a ward leaves or is removed from the custody of a guardian appointed under this section, the Deputy Commissioner of the District specified in the notification issued under section 9 may exercise the powers conferred by section 25 of the said Act on a Court as defined in that Act. India Act VIII of 1890.

(3) The Court of Wards may appoint any person to be the tutor of any minor male ward and may control and remove such tutor. Every tutor so appointed shall discharge such duties and regulate his conduct in such manner as the Court of Wards may from time to time direct.

No person who can succeed to ward to be appointed guardian.

36. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian; but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

Duties and responsibilities of guardians.

37. A guardian appointed under this chapter shall be charged with the custody of the ward, and shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made, under this Act, in that behalf, make suitable provision for his maintenance, health and, if he be a minor, his education and such other matters as the personal law to which the ward is subject, requires and shall—

(a) give such security, if any, as the Court of Wards thinks fit for the due performance of his duty;

(b) submit such accounts as the Court of Wards may direct;

(c) pay the balances due from him thereon;

(d) continue liable to account to the Court of Wards, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;

(e) apply for the sanction of the Court of Wards to any act which may involve expense not previously sanctioned by it; and

(f) be entitled to such salary or allowance, to be paid out of the proceeds of the property of the ward, as the Court of Wards thinks fit, in respect of the execution of his duties as such.

Appointment, control and removal of managers.

38. The Court of Wards may appoint one or more managers for any properties under its superintendence and may control and remove such managers.

Powers of managers

39. A manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made, under this Act, in that behalf, have power to collect the rents of the lands placed under his charge as well as all other money due to the ward or person whose property he manages, and to grant receipts therefor; and he may, subject to the same supervision, direction and rules (if any), grant and renew leases and farms, and do all such lawful acts as he may be generally or specially authorised by the Court of Wards to do for the good management of the property.

40. Every manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and to the rules (if any) made, under this Act, in that behalf, manage the property or properties placed under his charge diligently and faithfully, and he shall—

Duties and responsibilities of managers.

(a) give such security, if any, as the Court of Wards thinks fit, duly to account for what he may receive in respect of the rents and profits and other income of the property under his charge;

(b) keep accounts in such form and submit them at such times as the Court of Wards may direct;

(c) deal with all money received by him in such manner as the Court of Wards may direct;

(d) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by it;

(e) be entitled to such salary or allowance, to be paid out of the proceeds of such property, as the Court of Wards thinks fit, in respect of the execution of his duties;

(f) be responsible for any loss occasioned to the property by his negligence or wilful default; and

(g) continue liable to account to the Court of Wards after he has ceased to be manager for his receipts and disbursements during the period of his management,

41. The appointment of every guardian or manager appointed under this chapter, shall terminate on the Court of Wards ceasing to exercise superintendence of the person or property in respect of whom or which such guardian or manager, as the case may be, has been appointed.

Termination of appointment of guardian or manager.

42. (1) Every guardian and manager appointed under this chapter shall be deemed to be a 'public servant' within the meaning of section 21 of the Indian Penal Code and for the purposes of that Code.

Guardians and managers to be deemed to be public servants and managers and certain guardians to be deemed to be public accountants.

India Act XLV of 1860.

(2) Every such manager shall be deemed to be a 'public accountant' within the meaning of the Public Accountants Act, 1850, and every such guardian shall be deemed to be a 'public accountant' within the meaning and for the purposes of sections 3 to 5 of the Public Accountants Act, 1850.

India Act XII of 1850.

Ibid.

(3) In the definition of 'legal remuneration' contained in section 161 of the Indian Penal Code, the word 'Government' shall, for the purposes of this section, be deemed to include the Court of Wards.

43. If no such guardian or manager is appointed by the Court of Wards, the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9 or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf, shall be competent to do anything that might be lawfully done by a guardian of the person or a manager of the property appointed under this chapter.

Deputy Commissioner when to discharge the duties of guardian or manager.

CHAPTER VIII.

RELEASE OF PERSONS AND PROPERTIES FROM SUPERINTENDENCE.

44. The Court of Wards may, at any time, release any person or property, or both, from its superintendence:

Power to release from superintendence.

Provided that the property of a land-holder who has been made a ward in accordance with an order made under section 5, shall not be released from the superintendence of the Court of Wards without the previous sanction of the Local Government:

Provided, further, that persons or property under the charge of the Court of Wards in accordance with the provisions of sub-section (2) of section 7, shall not be released without the concurrence of the Court which appointed or declared the Deputy Commissioner to be guardian of the person or property, or both, of the person concerned, under the Guardians and Wards Act, 1890.

India Act VIII of 1890.

45. (1) Whenever a ward dies or ceases to be under any legal incapacity, and his property is, at the time of his death or cessation of incapacity, still encumbered with debts and liabilities, the Court of Wards may either release such property or, with the sanction of the Local Government, retain it or any part thereof under its superintendence until such debts and liabilities have been discharged.

Retention of superintendence of property until discharge of debts.

(2) In any case provided for in sub-section (1) the Court of Wards may together with the property of any such ward also retain, until the said debts and liabilities have been discharged, the property of which it has assumed the superintendence under section 8.

Retention of superintendence where there are more proprietors than one.

46. If, in the case of any property, there are more proprietors than one, the Court of Wards may retain the whole property under its superintendence if one or more of the proprietors remain wards, although other or others may have ceased to be under any legal incapacity:

Provided that in such cases a proprietor who have ceased to be disqualified shall not, after the cessation of such disqualification, be deemed to be a ward for the purposes of this Act and the Court of Wards shall pay to such proprietor the surplus income accruing from his share of the joint property.

Appointment of guardian on release of minor.

47. (*1*) When the Court of Wards decides to release from its superintendence the person or property, or both, of any minor, it may, before such release, by an order in writing, appoint any person to be the guardian of the person or property, or both, of such minor.

(*2*) Such appointment shall take effect from the date of such release.

(*3*) In appointing a guardian under this section the Court of Wards shall be guided by the provisions of section 17 of the Guardians and Wards Act, 1890, and in every such case the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9 shall have the powers conferred upon a Deputy Commissioner under section 35 (*2*).

India Act VIII of 1890.

(*4*) Every such guardian shall have and be subject to the same rights, duties and liabilities as if he had been appointed under the Guardians and Wards Act, 1890.

ibid

Disposal of property after the death of a person of whose property the Court of Wards has assumed superintendence.

48. Whenever, in the event of the death of any person of whose property the Court of Wards has assumed superintendence, the succession to his property, or any part thereof, is unclaimed or disputed, the Court of Wards may either direct that the property, or part thereof, be made over to any person entitled to or claiming the same, or may institute a suit of interpleader against the several claimants, or may retain the superintendence thereof until a claimant has, in due course of law, established his title thereto in a competent Court.

Delivery of documents and accounts on release of property.

49. Whenever the Court of Wards releases the property of any person from its superintendence, it shall deliver to such person or if it has appointed a guardian under sub-section (*1*) of section 47, to such guardian all documents of title and all papers and accounts (other than Government records) relating to such property.

Notification as to release from superintendence.

50. Whenever the Court of Wards releases any person or property from its superintendence, the fact of such release shall be notified in the Gazette, and such release shall take effect from the date fixed in this behalf in the notification.

Recovery of expenses.

51. Any expense incurred by the Court of Wards on account of any property under its superintendence may, after the release of such property, be recovered as an arrear of land-revenue due in respect of such property or any part thereof.

CHAPTER IX.

MISCELLANEOUS PROVISIONS.

Bar of suits and proceedings.

52. (*1*) No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act.

(*2*) No suit shall be brought against any officer of Government or any guardian, manager or servant appointed by and discharging his duties under a Court of Wards for anything done by him in good faith under this Act.

Investigations into matters under Chapters VI and VII to be considered judicial proceedings.

53. Every investigation conducted by a Deputy Commissioner with reference to any claim preferred before him under Chapter VI or Chapter VII or to any matter connected with any such claim shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Power to make rules

54. The Court of Wards may, with the previous sanction of the Local Government, make rules consistent with this Act regulating all or any of the following matters, namely,—

(*a*) the management of properties or of all or any property under the superintendence of the Court of Wards;

(*b*) the procedure to be observed and the powers to be exercised by all or any persons in all or any proceedings under this Act; and

(*c*) generally for the purpose of giving effect to all or any of the provisions of this Act.

SCHEDULE.

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
XXVI of 1854	Education of male minors subject to the superintendence of the Court of Wards.	The whole so far as it applies to the Punjab.
IV of 1872 ...	The Punjab Laws Act, 1872.	Sections 34, 38, inclusive.
XII of 1887 ...	Amendment of the Punjab Laws Act, 1872.	Sections 3 and 4.

C. J. HALLIFAX,

Secy. to Govt., Punjab, Home (Legislative) Department.

Punjab Government Press, Lahore—9-7-03—715.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, DECEMBER 24, 1903.

PART V.

Bills introduced in the Council of the Lieutenant-Governor of the Punjab for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 18 (of the Rules for the Conduct of Business at Meetings of the Council).

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

THE following report of the Select Committee on the Bill to amend the law relating to the limitation of suits for the recovery of money due on account of money lent or advanced, or on an account stated, or in respect of goods supplied, was presented to Council of the Lieutenant-Governor of the Punjab for the pupose of making Laws and Regulations, on the 23rd December 1903:—

We, the undersigned members of the Select Committee to which the Bill to amend the law relating to the limitation of suits for the recovery of money due on account of money lent or advanced, or on an account stated, or in respect of goods supplied, was referred, have considered the Bill and have now the honour to submit this our report, with the Bill, as amended by us, annexed hereto.

Clause 2.—We have omitted this clause because in the next clause we have provided that the provisions of the Bill shall be subject not only to sections 5 to 25, but also to section 3 and the whole of section 4 of the Indian Limitation Act, 1877. To section 1 and all but the last sentence of section 2 of that Act obviously no reference need be made in the Bill, and as regards the last sentence of section 2 of the Act, we have purposely refrained from incorporating it into the Bill as we do not consider that in the class of agreements with which section 25 of the Contract Act, 1872, deals, any extension of time beyond that which is given by the Act is desirable.

Clause 4.—In order to make the meaning of this clause perfectly clear, we have added ***before*** the word "barred" the words "already at the date of the commencement of this Act."

The schedule.—As we understand, the primary and main intention of the Bill is to extend the period of limitation in respect of those monetary transactions which more particularly concern the agricultural classes of the Punjab. As, however, these transactions are in no way peculiar or exclusively confined to the agricultural class and as it is desirable to secure, as far as possible, uniformity of the law, it was decided, in the absence of any good reason to the contrary, not to exclude the rest of the community from the provisions of the Bill. Adhering to this principle, we have added to the schedule article 61 of the second schedule to the Limitation Act, but have struck out from the schedule articles 58 and 85, as the transactions described in these two articles are unknown and foreign to the ordinary Punjab ***zamindár***.

We have, however, so far departed from the above principle as to include in the schedule all the articles (69 to 80, both inclusive) of the Limitation Act which deal with bills of exchange, promissory notes and bonds. Many of these articles are unnecessary so far as agriculturists are concerned, but, on the other hand, bonds and promissory notes in certain forms are well known to, and daily used by them, and it was pointed out to us that it would tend to cause great confusion especially to the mercantile community unless one uniform period of limitation were prescribed generally for all negotiable instruments and bonds. We were impressed by this objection and considered that the inconvenience which would otherwise result, sufficiently justified us in so far departing from the main object of the Bill.

The Bill was published in English in the *Punjab Gazette* of the 14th, 21st and 28th May 1903, and in Urdu in the *Punjab Gazette* of the 28th May 4th and 11th June 1903, and need not, in our opinion, be republished.

LAHORE:
The 10th December 1903.

C. L. TUPER.
MADAN GOPAL.
ALEX. ANDERSON.
D. P. MASSON.

NOTE.

I HAVE signed the Report of the Select Committee because I think that the Bill as amended by them will suffice for its purpose if that is adhered to; but I regret that I am unable to agree with the principle on which this measure is based.

1. In my humble opinion it is an erroneous idea that the 3 years' limitation is a direct cause of litigation and of the heaping up of interest on interest. As a fact suits are brought only (*i*) if differences take place between the creditor and the debtor leading to hostility (*ii*) if the debtor's credit or the patience of the creditor is completely exhausted (*iii*) or if the creditor is in need of money.

In the absence of these elements, usually balances are struck or fresh documents taken. Litigation is ***very rarely*** resorted to. If these elements exist in any case, the extension of the period will not induce the creditor to give more time to the debtor. He will sue as soon as he may see fit. The extension is therefore not called for. I agree with the remarks of Mr. Langley on these points.

2. Again there are other considerations which will make the proposed measure a dead letter.

After a long time, either the witnesses to a transaction are dead or their memory becomes weak, and consequently they are discredited in courts. The ***consequence is that per force the creditor must sue early.*** After the lapse of a long time it often becomes difficult to prove payment of consideration on the one hand or repayment of debt on the other. As remarked by Mr. Harris, the work of the courts will become difficult if the 6 years' period be adopted. As Mr. Chevis says: "A just claim or a just defence will be harder to prove at the end of six years, than at the end of only three."

3. As remarked by several officers who have been consulted, the extension to six years will make the debtors careless and indolent as regards payment. The great majority of peasant proprietors are improvident. These people will put off the date of payment and will get deeper into debt if the limitation were six years. In all mercy to them, the period should not be extended.

4. The proposed change will ruin the zamíndár by rendering him liable for accumulated and compound interest. On this point I agree with the remarks made by Mr. Yewdall. To extend the period to six years would mean giving the creditors a longer rope to coil round the debtors who would find it very difficult to extricate themselves. If the period is extended, settlement of accounts will take place, shortly before the expiry of six years. The debtor would then find himself weighed down under a burden of debt much greater than he ever imagined. It would simply ruin him.

5. I agree with Mr. Kensington that this measure will increase the power of the agriculturist money-lender, who, it will be acknowledged on all hands, is a much more unscrupulous person than the Bania.

6. There should, I think, be one law for the whole of India. No sufficient ground has been made out for having one law in the Punjab and another for the rest of India.

7. Connected with the last is the question of ***res judicata.*** A debtor residing at Delhi borrows from a Maháján residing at Shahdara, across the river Jumna, and executes a bond at Shahdara. The debtor may be sued by the creditor at his option either at Delhi or in the United Provinces, but while the period of limitation will be six years at Delhi, that in the United Provinces will be three.

Suppose a suit is brought in the United Provinces after the expiry of three years. Necessarily the suit will be dismissed as barred by efflux of time. Will then the creditor be in a position to sue at Delhi within 6 years? I think not, there is nothing in the Civil Procedure Code to restrict the application of the rule of *res judicata* to issues of fact as distinct from issues of law. Therefore simply because the creditor chose to sue at a place more convenient to him he must suffer. The natural result will be that there will be more litigation in the Punjab than in the sister provinces. Surrounded as we are by Sind on one side, the Frontier Province on another, the United Provinces on the third and Rájpútána on the fourth, the litigation of all will flow into the Punjab, a circumstance which I am unable to approve.

8. As to making the period of limitation here uniform with that in England, I do not know whether the Hon'ble Mover is aware that even in England a very strong effort was made some years ago to reduce the period. Lord Randolph Churchill suggested that the period for simple contract debts be reduced from six to two years, and the measure was not passed into law because of accidents only—change of ministry, retirement of the Mover, and similar circumstances. The fact is that in the present day the tendency everywhere is to *reduce* rather than *extend*. In a large number of cases, the period of limitation has been reduced from 20 to 12 years in England. Swift communications abreviate time. "What thou doest, do quickly" is a counsel which needs enforcement; for long credit is good neither for the creditor nor for the debtor.

MADAN GOPAL.

Annexure to Report of Select Committee.

Bill No. 1 of 1903.

AS AMENDED BY THE SELECT COMMITTEE.

A Bill to amend the law relating to the limitation of suits for the recovery of money due on account of money lent or advanced, or on an account stated, or in respect of goods supplied.

WHEREAS it is expedient to amend the law relating to the limitation of suits for the recovery of money due on account of money lent or advanced, or on an account stated, or in respect of goods supplied: it is hereby enacted as follows:—

Short title and Local extent.

1. *(1)* This Act may be called the Punjab Loans Limitation Act, 1904.

(2) It extends to the Province of the Punjab.

Dismissal of suits of the description specified in the Act if instituted after the period of limitation therein prescribed has expired.

2. Subject to the provisions contained in sections 3 to 25 (inclusive) of the Indian Limitation Act, 1877, and notwithstanding anything in the second schedule of the same Act to the contrary, every suit of the description specified in the schedule hereto annexed shall, if instituted after the period of limitation therein prescribed, be dismissed, although limitation has not been set up as a defence. India Act XV of 1877.

Right to sue barred not to be revived.

3. Nothing herein contained shall be deemed to revive any right to sue already at the date of the commencement of this Act, barred under the Indian Limitation Act, 1877. India Act XV of 1877.

H. A. B. RATTIGAN,

Secretary, Legislative Council.

THE SCHEDULE.

Serial No.	No. of Article in Second Schedule, India Act XV of 1877.	Description of Suit.	Period of Limitation.	Time from which period begins to run.
1	52	For the price of goods sold and delivered when no fixed period of credit is agreed upon.	Six years ...	The date of the delivery of the goods.
2	53	For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Ditto ...	When the period of credit expires.
3	57	For money payable for money lent ...	Ditto ...	When the loan is made.
4	59	For money lent under an agreement that it shall be payable on demand.	Ditto ...	Ditto ditto.
5	61	For money payable to the plaintiff for money paid for the defendant.	Ditto ...	When the money is paid.
6	63	For money payable for interest upon money due from the defendant to the plaintiff.	Ditto ...	When the interest becomes due.
7	64	For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on account stated between them.	Ditto ...	When the accounts are stated in writing, signed by the defendant or his agent duly authorized in this behalf, unless when the debt is by a simultaneous agreement in writing signed as aforesaid, made payable at a future time and then when that time arrives.
8	66	On a single bond when a day is specified for payment.	Ditto ...	The day so specified.
9	67	On a single bond when no such day is specified.	Ditto ...	The date of executing the bond.
10	68	On a bond subject to a condition ...	Ditto ...	When the condition is broken.
11	69	On a bill of exchange or promissory note payable at a fixed time after date.	Ditto ...	When the bill or note falls due.
12	70	On a bill of exchange payable at sight, or after sight, but not at a fixed time.	Ditto ...	When the bill is presented.
13	71	On a bill of exchange accepted payable at a particular place	Ditto ...	When the bill is presented at that place.
14	72	On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Ditto ...	When the fixed time expires.
15	73	On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue	Ditto ...	The date of bill or note.
16	74	On a promissory note or bond payable by instalments.	Ditto ...	The expiration of the first term of payment as to the part then payable; and for the other parts, the expiration of the respective term of payment.
17	75	On a promissory note or bond payable by instalments which provides that if default be made in payment of one instalment, the whole shall be due.	Ditto ...	When the first default is made, unless when the payee or obligee waives the benefit of the provision, and then when fresh default is made in respect of which there is no such waiver.
18	76	On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen	Ditto ...	The date of delivery to the payee.
19	77	On a dishonoured foreign bill when protest has been made and notice given.	Ditto ...	When the notice is given.
20	78	By the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.	Ditto ...	The date of the refusal to accept.
21	79	By the acceptor of an accommodation bill against the drawer.	Ditto ...	When the acceptor pays the amount of the bill.
22	80	Suit on a bill of exchange, promissory note or bond not herein expressly provided for.	Ditto ...	When the bill, note or bond becomes payable.

Bill was introduced in the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations.

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[First publication.]

THE following Bill was introduced in the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations on the 23rd December 1903:—

BILL No. 2 of 1903.

A Bill to amend the Sind-Sagar Doab Colonisation Act, 1902.

Punjab Act I of 1902. WHEREAS it is expedient to amend the Sind-Sagar Doab Colonisation Act, 1902:

It is hereby enacted as follows:—

Short title. 1. This Act may be called the Sind-Sagar Doab Colonisation (Amendment) Act, 190 .

Punjab Act I of 1902. Substitution of new sub-section for sub-section (2) of section 1 of Act I of 1902. 2. For section 1, sub-section *(2)*, of the Sind-Sagar Doab Colonisation Act, 1902, the following sub-section shall be substituted, namely—

"*(2)* It extends to the territories situate between the river Indus and the rivers Jhelum and Chenab and lying within the limits of the Mianwali, Shahpur, Muzaffargarh and Jhang Districts, respectively, of the Punjab, and commonly known as the Sind-Sagar Doab; and"

Punjab Act I of 1902. Addition of new section after section 11, Act I of 1902. 3. After section 11 of the Sind-Sagar Doab Colonisation Act, 1902, the following section shall be inserted, namely—

Power to declare the area restored to be subject to the encumbrances existing on the land surrendered. "11 A. *(1)* When the Government makes a restoration of rights in any area equal to one-fourth of the land surrendered to Government, in pursuance of an agreement under this Act and in accordance with section 5, proviso *(b)*, the Deputy Commissioner may, after giving such notice as he may think necessary to the persons whom he considers interested, make an order declaring the rights so restored to be subject to such encumbrances or so much thereof, as existed at the time of such surrender on the whole or any portion of the area originally surrendered, and as may seem to him to be just and reasonable.

"*(2)* When a declaration such as is mentioned in sub-section *(1)* has been made it shall be deemed to be a mortgage and, notwithstanding anything in the Indian Registration Act, 1877, or in the Indian Stamp Act, 1899, it shall have full force and effect without being registered or stamped, and may be enforced by the person or persons therein stated to be entitled to the right declared, or by his or their legal representatives or assigns. India Act III of 1877. India Act II of 1899.

"*(3)* If at the time of making such an order as is mentioned in sub-section *(1)*, any question is raised as to the existence or validity of any such encumbrance, or as to the amount or rights recoverable or enforceable thereunder, the Deputy Commissioner may decline to make the order until the said question has been finally determined by a competent Civil Court and on the final determination of the said question or questions the Deputy Commissioner may make the order in accordance with such decision.

"*(4)* The Deputy Commissioner may himself inquire into and determine any such question or questions, but if he allows the claims of the mortgagee in whole or in part, he shall not make an order under sub-section *(1)* until after the expiry of the period of limitation provided for an appeal from his decision under section 13.

"*(5)* A right or interest in land acquired by any person under an order made by the Deputy Commissioner under sub-section (4) or under an order made on an appeal from the Deputy Commissioner's decision under that sub-section shall be open to revision in the manner provided in Section 16 of the Punjab Land Revenue Act, 1887, but shall not otherwise be called in question in any Civil or Revenue Court." India Act XVII of 1887.

4. Section 14 of the Sind-Sagar Doab Colonisation Act, 1902, is hereby repealed and the following section is substituted therefor namely:— Punjab Act I of 1902.

"14. Every agreement for the surrender of land in the territories to which this Act extends, taken and executed since the first day of January 1901, and all conditions prescribed by the Local Government, and all enquiries, declarations or appointments made, decisions passed, proclamations or notices issued, and all other acts or things done since the date aforesaid which might be done by a Deputy Commissioner under this Act, shall, so far as they relate to the purposes, and are consistent with the provisions, of this Act, be deemed to have been taken and executed, prescribed, made, passed, issued or done, as the case may be, by the Local Government or a Deputy Commissioner under this Act, and shall have the same effect and validity as if this Act had come into force on the date aforesaid."

H. A. B. RATTIGAN, *Secretary, Legislative Council.*

C. L. TUPPER, *Member.*

STATEMENT OF OBJECTS AND REASONS.

IN returning the Sind-Sagar Doab Colonisation Act, I of 1902, with the assent of His Excellency the Viceroy and Governor-General signified thereon, it was pointed out by the Government of India in their letter No. 73, dated the 14th January 1902, that some degree of hardship might not impossibly result from the wording of the provisions thereof as regards the position and rights of mortgagees. The Government of India considered that the rights of a mortgagee over land surrendered by an agreement under Section 5 would be preserved only where and in so far as the whole or part of the specific area originally mortgaged is handed back to the mortgagor or his representative or assign but where and in so far as that specific area is not handed back, but is retained by the Government, the rights of the mortgagee must disappear. Moreover, the rights which are surrendered to the Government would be those of the mortgagor, and not those of the mortgagee, the latter being expressly precluded from being a party to the agreement and from having any rights in relation to the Government and consequently the Government when it "restores" rights in accordance with sub-head (*b*) of the proviso to Section 5 cannot possibly transfer to the area handed back the operative effect of a mortgage applying by its terms to an area retained.

From the Government of India Notification No. 5780, dated 25th October 1900, and Punjab Government Notification therein cited it will be seen that the districts of Bannu and Dera Ismail Khan had ceased to belong to the Punjab at the time that the Act received the assent of the Governor-General. Portions of the Dera Ismail Khan District, namely the Tahsils of Leiah and Bhakkar, which were not included in the North-West Frontier Province, were with Isa Khel made into a new district called the Mianwali District. The result of this is understood to be that (1) the Act does not extend to the area comprised in the new Mianwali District and (2) in so far as the Act is said to extend to the territories within the limits of the Bannu and Dera Ismail Khan Districts, it is *ultra vires* and void as the expressions "Bannu District," "Dera Ismail Khan District" can only mean the Bannu and Dera Ismail Khan Districts as existing at the time when the Act came into force.

It is therefore proposed to amend sub-section 2 of Section 1 of the Act by substituting therefor a new sub-section in which the word "Mianwali" is substituted for the words "Bannu, Dera Ismail Khan."

As the amendment of the Act was thus necessary, the opportunity was taken to amend it also on the lines suggested by the Government of India. To effect this, it is proposed to add a new section after Section 11, which provides that in eventually handing back an area equal to one-fourth of the land surrendered in the first instance, the Deputy Commissioner may make an order declaring that area to be subject to such encumbrances as may seem to him to be just and reasonable, such order being declared to be binding on the Courts and enforceable as a mortgage, without being stamped or registered as such. A discretion has been left to the Deputy Commissioner to make such an order or not as he sees fit. The question will usually be decided by the Colonisation Officer, who will, for the purposes of the Act, be appointed to perform the functions of the Deputy Commissioner under the Act, and he will be in a position to decide whether equitably such an order should or should not be made.

It has also been considered whether sub-section 1 should read "as legally existed at the time of such surrender." It was thought better not to impose upon the Deputy Commissioner the burden of deciding possibly intricate questions on objection being raised to the legality or validity of the original mortgage. The word "legally" was therefore not inserted and the procedure adopted in Section 117 of the Punjab Land Revenue Act, 1887, was adopted and embodied in sub-section 3 to the present section. By this sub-section a discretion is given to the Deputy Commissioner, on any objection being raised to his making such an order, to either proceed to decide the objection himself, which he would do if it was clearly vexatious and frivolous or involved no difficult questions, or to decline to make an order until the dispute had been finally decided by the Civil Courts.

If he does proceed to decide the matter himself his decision will be appealable as provided in Section 13 of this Act and a proviso to this sub-section 3 has been added that an order shall not be made until the period of limitation for an appeal from his decision has expired.

It has also been brought to notice that Mr. Hailey took a large number of signatures as Assistant Settlement Officer, Dera Ismail Khan, and these were provided for in Section 14 (1) of the Act so far as the territories to which the Act extended were concerned, but the section does not cover the new Mianwali District. He also took a few as Settlement Officer and has taken a very large number as Colonisation Officer, Jhelum Canal. In order to validate all that has been done by him Section 14 has been entirely repealed and re-enacted in general terms. The two sub-sections have been consolidated into one and for the sake of uniformity all acts or things done since the 1st January 1901 have been legalised, it having been ascertained that it is not necessary to go further back than that date.

H. A. B. RATTIGAN,
Secretary, Legislative Council.

C. L. TUPPER,
Member.

[First publication.]

THE following Bill was introduced in the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations on the 23rd December 1903 :—

The Punjab Minor Canals Bill.

CONTENTS.

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[First publication.]

Bill No. 3 of 1903.

A Bill to Make better provision for the control and management of minor canals in the Punjab.

WHEREAS it is desirable to make better provision for the exercise of control over and for the regulation of the management of certain minor canals in the Punjab;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and local extent.

1. *(1)* This Act may be called the Punjab Minor Canals Act of 190 .

(2) It shall extend to the whole of the Punjab.

Operation of Act.

2. *(1)* The provisions of this Act shall apply, to the extent and in the manner hereinafter provided, to every canal specified in either Schedule I or Schedule II as the case may be.

(2) At any time after the passing of this Act, the Local Government may, from time to time, by notification—

(a) include any canal under either Schedule I or Schedule II, as the case may be, or transfer a canal from one schedule to the other schedule, and thereupon the provisions of this Act applicable to canals included under such schedule, or such of the said provisions as the Local Government may direct, shall apply to such canal; or

(b) exclude from the operation of this Act any canal which now is, or hereafter may be, included under either Schedule I or Schedule II :

Provided that, unless for special reasons only those canals will be included under Schedule I which are managed by Government Officers or District Boards.

India Act VIII of 1873.

(3) The Northern India Canal and Drainage Act, 1873, shall not apply to any canal which is for the time being included under either Schedule I or Schedule II.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context—

(i) "Collector", "Commissioner" "District", "Estate", "Record-of-Rights", "Revenue Officer" and "Village Officer" have the meaning assigned to them respectively in the Punjab Land Revenue Act, 1887; (India Act XVII of 1887)

(ii) "Canal" means any canal, channel, or reservoir constructed or maintained for the supply or storage for irrigation of the water of any river or stream or of any lake or other natural collection of water, and includes any water-course or subsidiary works as defined in this section;

(iii) "Construction" and "construct" include any alteration which would materially extend the area irrigated by a canal or any other alteration of material importance or effect or renewal after disuse for six years, but do not include the re-excavation of a canal head which has been temporarily abandoned owing to a change in the river, the excavation of a new head necessitated by a change in the river or a change of water-courses to render existing irrigation more efficient;

(iv) "Creek" means any channel of a river other than the main channel through which the water of the river would, unless obstructed by deposit of silt, naturally flow at some period of the year;

(v) "Irrigator" means in respect of any land which is irrigated from a canal any person for the time being directly deriving benefit by such irrigation and includes a land-owner or occupancy tenant of such land;

(vi) "Labourer" includes persons who exercise any handicraft specified in rules to be made in this behalf by the Local Government; (Cf. India Act VIII of 1873, section 63.)

(vii) "Subsidiary works" mean all works required for the maintenance of the supply to a canals or for the maintenance of a canal in proper condition or for the regulation of the irrigation therefrom or for the prevention of floods or for the provision of proper drainage in connection with such irrigation, and include also the land required for such works;

(viii) "Water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of the person at whose cost such canal is maintained, and includes all subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel;

(ix) "Water-due" means whatever is payable to Government in cash or kind by the owner of a canal or by an irrigator therefrom for the use by such owner or irrigator for the purposes of such canal of the water of any river or stream flowing in a natural channel and of any lake or other natural collection of still water;

(x) "Water-rate" means the charge made for canal water, but does not include any canal-advantage land-revenue rate.

CHAPTER II.

CONSTRUCTION OF CANALS AND WATER-DUES.

Cf. Regulation IV of 1898.

Prohibition against construction of canals without permission.

4. No person shall, without permission previously obtained in the manner prescribed in the section next following, construct a canal intended to be fed by the water of any river or stream flowing in a natural channel or of any lake or other collection of still water notified in this behalf from time to time by Government:

Provided that nothing in this section contained shall apply to the construction of a water-course from an existing canal.

Application for permission and procedure thereon.

5. *(1)* Any person desiring to construct a canal intended to be fed from any source of supply which has been notified by Government under section 4, may apply, in writing, to the Collector, for the permission prescribed in that section.

(2) Every application under sub-section *(1)* shall be in such form and shall contain such particulars as the Local Government may prescribe in that behalf.

(3) The Collector shall dispose of the application in accordance with the rules (if any) made by the Local Government under the authority of this Act.

Cf. Regulation IV of 1898, sections 6 and 7.

Power to prohibit the unauthorised construction of and to close unauthorised canal.

6. *(1)* If any person, without the permission necessary under sections 4 and 5 of this Act, or contrary to any of the conditions of such permission, commences to construct or proceed with the construction of any canal, the Collector may, at any time, by order in writing, prohibit such person, and, by general proclamation, all other persons, from continuing the construction thereof:

Provided that unless in the case of a construction which would materially extend the area irrigated by a canal, no such direction, order or proclamation, as the case may be, shall be made or issued in respect of any canal which, at the time when it is proposed to make or issue such direction, order or proclamation, has been used for irrigation for a period of three years without interruption, other than such as was due to natural causes beyond the control of the person aforesaid.

(2) If any person shall, at any time after the passing of this Act, construct a canal without the permission necessary under sections 4 and 5 of this Act, the Collector may, with the previous sanction of the Local Government, close it and shut off the supply of water thereto, and may further, by order in writing, prohibit such person, and, by general proclamation, all other persons, from maintaining, repairing or renewing such canal or continuing to use the water thereof.

Water-dues.

7. *(1)* Subject to the conditions, if any, imposed or agreed to by the Local Government such Government may assess and levy water-dues in respect of—

(i) canals made after the commencement of this Act;

(ii) canals made before the commencement of this Act—

(a) when the right to, or question of, water-dues has been expressly reserved by such Government, or

(b) when the conditions upon which the owner of the canal has been allowed to use the water have been agreed on for a term and that term has expired, or

(c) when such water-dues were already levied at the commencement of this Act.

(2) Such dues may be levied in the form of either *(a)* a rate imposed on all lands irrigated by such canal and not exceeding half the sum which under the rules for the time being in force for the assessment of land revenue might be assessed on such land on account of the increase in the value or produce thereof caused by the irrigation from the canal, or *(b)* a lump annual sum not exceeding one-half of the average annual net profits from the canal accruing to the owner thereof.

(3) For the purposes of sub-section *(2)* land which is permanently settled or held free of revenue, shall be dealt with as if it were temporarily settled and liable to assessment of revenue.

(4) Such water dues shall be leviable from such persons deriving benefit from the canal as the Local Government may, by general or special rule, direct and in case of default shall be recoverable by the Collector as if they were arrears of land revenue.

CHAPTER III.

PROVISIONS APPLICABLE TO CANALS UNDER SCHEDULE I.

This chapter applicable only to canals under Schedule I.

8. The provisions of this chapter shall apply only to canals for the time being included under Schedule

General powers of Collector.

9. *(1)* Notwithstanding the existence of any rights in or over a canal or water-course, the Collector may—

(a) exercise all powers of control, management and direction for the efficient maintenance and working of such canal or for the due distribution of the water thereof; and

Cf. section 32 (a) (2) of Act, VIII of 1873.

(b) whenever and so long as any water-course sluice or outlet is not maintained in proper customary repair, or any water-course sluice or outlet through which water is supplied to any person, or, in the case of a sluice or outlet, to any water-course or any person, is subjected to wilful damage or wrongful enlargement, stop the supply of water to such water-course sluice or outlet or to any person.

(2) No claim shall be enforceable against the Local Government for compensation in respect of loss caused by any order passed under sub-section *(1)*, but any person suffering loss by reason of any order passed under sub-section *(1) (a)* may claim such remission of the ordinary charges payable for the use of the water as is authorised by the Local Government.

Cf. India Act, XV of 1877.

(3) No right to the use of the water of a canal shall be, or be deemed to have been acquired under the Indian Limitation Act, 1877, nor shall Government be bound to supply any person with water.

Cf. India Act, VIII of 1873, section 14.

Power to enter and survey, &c.

10. The Collector or other person acting under the general or special orders of the Collector may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon;

and dig and bore into the sub-soil;

and make and set up suitable landmarks, level-marks and water-gauges;

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Collector;

Power to clear land.

and, where otherwise such enquiry cannot be completed, the Collector or such other person may cut down and clear away any part of any standing crop, fence or jungle;

Power to inspect and regulate water-supply.

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal:

Notice of intended entry into houses.

Provided that, if such Collector or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Compensation for damage caused by entry.

In every case of entry under this section, the Collector shall assess and pay compensation for any damage which may be occasioned by any proceeding under this section, and in assessing such compensation the Collector shall be guided by the provisions of the Land Acquisition Act, 1894, and may, for the purpose of inquiring into claims and assessing compensation therefor, exercise all or any of the powers by that Act conferred upon the Collector. India [Act I] of 189[4].

Cf. In[dia Act,] VIII o[f] 1873, s[ection] 15.

Power to enter for repairs and to prevent accidents.

11. In case of any accident happening or being apprehended to a canal, the Collector or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage to land.

In every such case, the Collector shall assess and pay compensation for any damage which may be occasioned by any proceeding under this section, and in assessing such compensation the Collector shall be guided by the provisions of the Land Acquisition Act, 1894, and may, for the purpose of inquiring into claims and assessing compensation therefor, exercise all or any of the powers by that Act conferred upon the Collector. India [Act I] of 189[4].

Cf. Regulation IV of 1898, section 18.

Power to take immediate possession in cases of urgency.

12. *(1)* In cases of urgency, if any new work is immediately required to prevent serious detriment to the utility of any canal, the Collector may, notwithstanding anything in the Land Acquisition Act, 1894, contained, take immediate possession of any land required for the construction of the work.

India Act, I of 1894.

(2) In every such case the Collector shall award compensation as laid down in section 10.

Power to occupy land adjacent to canal for depositing soil from canal and to excavate earth for repairs to the banks and compensation for damage.

13. *(1)* The Collector or any person acting under his general or special orders in this behalf may, within such distance from the canal as the Local Government may by rule determine, occupy land adjacent to any canal for the purpose of—

(*a*) depositing upon it soil excavated from the canal, or

(*b*) excavating from it earth for repairs to the banks of the canal.

Compensation for any damage which may be occasioned by any proceeding under this section shall in such cases be tendered or awarded in the manner provided by section 11 of this Act.

(2) The owner of any land which has been occupied for any purpose under sub-section *(1)* for a period exceeding three years may require that such land shall be permanently acquired in accordance with provisions of section 41.

Cf. India Act, VIII of 1873, section 20.

Supply of water through intervening water-course.

14. Whenever application is made to a Collector for a supply of water from a canal, and it appears to him expedient that such supply should be given, and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making enquiry on such day, the Collector shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

When the Collector determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Commissioner, be binding on the applicant, and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Collector or Commissioner may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application for construction of new water-course.

15. Any person desiring the construction of a new water-course may apply in writing to the Collector, stating— Cf. India Act VIII of 1873, section 21.

(i) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(ii) that he desires the Collector, in his behalf and at his cost, to do all things necessary for acquiring such right;

(iii) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of Collector thereupon.

16. If the Collector considers— Cf. India Act, VIII of 1873, section 22.

(i) that the construction of such water-course is expedient, and

(ii) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 19;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out.

Application for transfer of existing water-course.

17. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Collector stating— Cf. India Act, VIII of 1873, section 23.

(i) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;

(ii) that he desires the Collector, in his behalf, and at his cost, to do all things necessary for procuring such transfer;

(iii) that he is able to defray the cost of such transfer.

Procedure thereupon.

If the Collector considers—

(a) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(b) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 19 in respect of such transfer:

and, upon such deposit being made, he shall publish a notice of the application in every village affected.

Settlement of disputes.

18. *(1)* When a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use of the water of any canal, or in respect of the use or maintenance of a water-course supplied with water therefrom and any such person applies in writing to the Collector stating the matter in dispute, or when, within thirty days from the publication of a notice under section 16 or section 17, as the case may be, any person interested in the land or water-course to which the notice refers, applies to the Collector as aforesaid, stating his objection to the construction or transfer for which application has been made, the Collector shall give notice to the other persons interested that, on a day to be named in such notice or any subsequent day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute or into the validity of such objections as the case may be.

(2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute or the objection as the case may be, as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887, and the provisions of that Act regarding appeals, revisions and reviews shall be applicable.

India Act. XVI of 1887.

Cf. India Act, VIII of 1873, section 28.

Expenses to be paid by applicant for construction or transfer of water-course before receiving occupation.

19. No applicant under section 15 or section 17, as the case may be, shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation.

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, 1894; but he may, if the person to be compensated so desire, award such compensation in the form of a rent charge payable in respect of the land or water-course occupied or transferred or in the form of a right to a supply of water from the water-course.

India Act I of 1894.

Recovery of compensation and expenses.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

Conditions binding on applicant placed in occupation.

20. *(1)* When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest:—

Cf. India Act, VIII of 1873, section 29.

(a) In all cases,

First.—All works necessary for the passage across such water-course or water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Collector.

Second.—Land cccupied for a water-course under the provisions of section 16 shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land.

(b) In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge,

Fourth.—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the aplicant is placed in occupation.

Fifth.—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such person as the Collector determines.

Sixth.—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

(2) If any of the rules and conditions prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously, the right of the applicant, or of his representative in interest to occupy such land or water-course shall cease absolutely.

Cf. Regulation IV of 1898, section 17.

Construction of outlets from canals and of new water-courses by Collector.

21. *(1)* The Collector may construct or repair or improve a sluice or outlet to regulate the supply of water from a canal to any water-course.

(2) The Collector, when he considers it necessary or expedient that a new water-course should be constructed, may construct such water-course subject to the provisions of section 41.

Power to convert several water-courses running for a long distance side by side into one water-course.

22. *(1)* In cases where there are water-courses running for a long distance side by side and so situated as to interfere with the economical use or proper management of the water-supply, the Collector, if applied to for that purpose, or on his own motion may require the owners to make arrangements to his satisfaction to unite the water-courses or to substitute for them such system as may have been approved by him.

(2) If the owners fail within such time as the Collector may fix to comply with any order passed by him under sub-section *(1)*, the Collector may himself execute the work.

(3) Whenever a water-course has been reconstructed or a new system substituted under sub-section *(1)* or sub-section *(2)*, the Collector may fix the shares in which the water shall be enjoyed by the persons entitled to use the water-course.

Procedure applicable to occupation for extensions and alterations.

Cf. India Act, VIII of 1873, section 30.

23. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course and for the deposit of soil from water-course clearances.

Costs of executing works under section 21 or section 22, by whom payable.

24. In every case under section 21 or section 22, the cost of executing or completing the works shall be payable by such person or persons deriving benefit from the water-course as the Local Government may, by general or special rule, direct and shall be recoverable by the Collector as if it were an arrear of land-revenue.

Power of Government to suspend or extinguish rights in or over any scheduled canal on payment of compensation.

Cf. Regulation IV of 1898, section 23.

25. *(1)* The Local Government may at any time suspend or extinguish any right to which any person is entitled in or over any scheduled canal if the exercise of such right is prejudicial to the interests of other irrigators or to the good management, improvement or extension of the canal.

(2) In every such case the Local Government shall pay or cause to be paid to the person whose right is suspended or extinguished, reasonable compensation in money, land, or water-supply to be assessed by the Collector who, in making such assessment, shall, as far as may be, have regard to such person's wishes in respect of the nature of the compensation. In assessing such compensation the Collector shall have regard to the character of the right, the period during which it has been enjoyed and the damage likely to be occasioned by its suspension or extinction and shall in other respects, as far as may be, be guided by the provisions of the Land Acquisition Act, 1894, and may, for the purposes of inquiring into claims and assessing compensation therefor, exercise all or any of the powers by that Act conferred upon the Collector.

India Act I of 1894.

Power of Local Government to direct supply of labour by irrigators.

Cf. Regulation IV of 1898, section 8.

26. The Local Government may, by notification, direct that the irrigators from any scheduled canal or any two or more adjacent canals shall be bound to furnish labour free of cost to Government for the purpose of effecting the annual silt clearance of such canal or canals or of maintaining such canal or canals

in a state of efficiency or of executing any work necessary thereto, in either of the following cases, namely :—

(a) whenever such irrigators are bound, by a condition entered in the record-of-rights of such canal or canals or of the estates supplied with water therefrom or by established custom, to furnish such labour, or

(b) whenever the land-owners who are responsible for the payment of more than half the land-revenue assessed on the land irrigated from such canal, or canals, agree to undertake to supply such labour.

Powers of Collector upon issue of notification under section 26.

27. Upon the issue of a notification under section 26 the Collector may, from time to time, by general or special order,—

(a) determine the number of labourers to be provided or the amount of work to be performed by each irrigator;

(b) regulate the attendance, distribution and control of the labourers provided or the manner of the performance of the work;

(c) assess and recover, as if it were a fine, compensation from any person who fails to comply with an order passed under this section; and

(d) fund all compensation so recovered and expend it on the provision of hired labour for any of the canals to which the notification applies, or on any other purpose connected with the well-being thereof:

Provided that the compensation assessed as aforesaid shall not exceed one rupee for each day's labour of each of the labourers in respect of whom default has occurred.

Cf Regulation IV of 1898, section 19.

Power to prepare record for canal.

28. *(1)* The Collector shall, whenever the Local Government may, by special order or by the rules made under the authority of this Act, so direct, prepare or revise for any canal a record showing all or any of the following matters, namely :—

(a) the custom or rule of irrigation;

(b) the rights to water and the conditions on which such rights are enjoyed; and

(c) the rights as to the erection, repair, reconstruction and working of mills, and the conditions on which such rights are enjoyed.

(2) Entries in the record so prepared or revised shall be relevant as evidence in any dispute as to the matters recorded, and shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor:

Provided that no such entry shall be presumed to be true which limits any of the powers conferred on Government by this Act.

(3) When a record showing all or any of the matters enumerated in sub-section *(1)* has been framed at any settlement of the land-revenue already sanctioned by the Government and has been attested by a Revenue Officer, such record shall be deemed to have been made under this section.

(4) Every person interested shall be bound to furnish to the Collector, or to any person acting under the direction of the Collector, all information necessary for the correct preparation of a record under this section.

(5) The provisions of Chapter IV of the Punjab Land Revenue Act, 1887, shall, so far as may be, apply to the preparation and revision of every such record. Act [illegible] 1887

Water-rates.

Levy of water-rates.

29. *(1)* Subject to the terms of any agreement made by it with the owners, the Local Government may by notification direct that a rate shall be levied in respect of all land irrigated from a canal included under Schedule I.

(2) Such rate shall be leviable from such persons deriving benefit from the said canal as the Local Government may, by general or special rule, direct.

(3) The Local Government may, by notification, also impose a special rate for all water obtained—

(a) through a breach in the banks made intentionally and without authority or in any unauthorised manner;

(b) from or through a water-course if and so long as the supply has been and is intentionally increased or diverted in an unauthorised manner.

(4) The proceeds of any rate levied under this section shall be disposed of in such manner as the Local Government may, by general or special rule, direct.

CHAPTER IV.

PROVISIONS APPLICABLE TO CANALS INCLUDED UNDER SCHEDULE II.

This Chapter applicable only to canals under Schedule II.

30. The provisions of this chapter shall apply only to canals for the time being included under Schedule II.

Consent or decision of a majority in number or interest of the share-holders of a canal to prevail.

31. *(1)* Whenever, in respect of any canal, any question arising under this Act or the rules made thereunder, is to be determined by the consent or decision of the owner, and the ownership of such canal is vested in more persons than one, the consent or decision of the share-holder or share-holders who possess the larger interest shall prevail and be binding upon every person who possesses any share in the ownership of such canal.

(2) If the interests are equally divided the Collector shall decide, and his decision shall similarly prevail.

Settlement of disputes arising in regard to canals.

32. *(1)* When a dispute arises between two or more share-holders in the ownership of any canal, or between two or more persons entitled to the use of the water of any such canal, or between any such share-holders and any such persons as aforesaid, the Collector may inquire into the same, either of his own motion or on the application of any such share-holder or person.

(2) When, upon an application or otherwise, the Collector thinks fit to inquire into any such dispute, he shall give notice to the persons interested that, on a day to be named in such notice or on any subsequent day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute.

(3) Upon the day so named or any such subsequent day as aforesaid the Collector shall proceed to hear and determine the dispute as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887, and the provisions of that Act regarding appeals, revisions and reviews shall be applicable.

India Act, XVI of 1887.

Power of the Collector, in certain cases, to declare or appoint a manager of a canal.

33. Where there are numerous share-holders in the ownership of a canal, or where it is difficult to ascertain the persons who are share-holders or the extent of the interest of the share-holders, or any of them, the Collector may, if there is no proper manager or representative, require by a proclamation or notice in writing, the share-holders to nominate, within a given period, a person as manager of the canal and their representative, and upon their failure to do so, or to nominate a fit person, may himself proceed to declare what person shall be deemed to be, or may appoint any person to be, the manager of such canal and the representative of the share-holders, and the person so nominated or declared or appointed may thereupon do all acts and things which the share-holders or any of them might lawfully do in regard to the management of such canal, and all acts and things so done by him shall be binding upon every person who possesses any share in the ownership of such canal.

Power of Local Government to apply the provisions of section 28 to any canal.

34. The Local Government may, by notification, declare all or any of the provisions of section 28 (as to the preparation and revision of records) to be applicable to any canal, and, upon any such declaration being made, such provisions shall, as far as may be, apply accordingly.

Power to assume control or management, or both, of a canal.

35. *(1)* It shall be lawful for the Local Government, by notification, to assume the control or management, or both, of any canal—

(a) if the owner of such canal consents thereto, and subject to the condition (if any) on which such consent may in any case be given ;

(b) if after such inquiry as to it may seem fit, the Local Government is satisfied that the control or management exercised by or on behalf of the owner is such as causes grave injury to the property or health of persons owning lands in the vicinity ;

(c) in the event of any wilful and continuous breach of orders issued under section 38 of this Act.

(2) When the control or management or both, of any canal is assumed under the provisions of sub-section *(1)*, the Local Government may exercise all or any of the rights and powers in regard thereto which, but for such assumption, the owner might lawfully have exercised, and may delegate such powers or any of them to any person, but Government shall, in the absence of any decree or agreement to the contrary, be liable to account, from time to time, to such owner for the net profits thereof and may at any time restore the canal to the owner.

Right of owner upon such assumption, to demand that the canal shall be acquired by the Government.

36. When the control or management. or both, of a canal shall be assumed by the Local Government un der clause *(b)* or clause *(c)* of sub-section *(1)* of section 35, and such control or management shall have continued for a period exceeding twelve years, the owner thereof may, by notice in writing delivered to the Collector, require that the Government shall acquire such canal.

Power to acquire canal on demand of the owner.

37. On receipt of notice under section 36 the Local Government shall by notification declare that the said canal will be acquired after a day to be named in the said

Cf. India Act, VIII of 1873, section 5.

notification, not being earlier than three months from the date thereof and after the issue of such notification the Collector shall proceed as in sections 43 and 44 provided.

Power to fix the limits of irrigation and water-rates and to regulate the distribution of water.

38. The Local Government may, in respect of any canal, issue orders as to all or any of the following things, namely—

(a) fixing the limits within which land may be irrigated from such canal;

(b) fixing, as it may deem equitable, the amount and character of the water-rates leviable by the owner, and the conditions on which such rates are to be paid, suspended, remitted or refunded;

(c) regulating the supply and distribution of the water to and from such canal:

Provided that if any land which has been continuously irrigated from the canal for three years previously is deprived of irrigation, or the income of the canal-owner from such canal is materially reduced by reason of any order passed under this section, the owners of such land or the canal-owner shall be paid by Government or by such persons as Government may determine such compensation as the Collector may consider reasonable.

Provided further that if the canal-owner has in the opinion of the Local Government exercised his powers as such in an arbitrary or inequitable manner he shall not be entitled to compensation under this section.

Collection, in certain cases, of water-rates of a canal by the Local Government.

39. *(1)* The Local Government may, at the request of the owner undertake the collection of the water-rates leviable in respect of a canal, and may, thereupon,—

(a) regulate such collection and determine the persons by whom it shall be made;

(b) direct that by way of compensation for service rendered in making such collection, deductions shall be made not exceeding three per cent. of the amount collected.

(2) When, under the provisions of this section, the Local Government has undertaken the collection of the water-rates leviable in respect of a canal, no suit for the recovery of any such rates shall be instituted or maintainable without the permission, in writing (to be previously obtained by the intending plaintiff), of the Collector.

CHAPTER V.

PROVISIONS APPLICABLE TO ALL CANALS.

This chapter applicable to all canals.

40. The provisions of this chapter shall be applicable to all canals, whether included under Schedule I or under Schedule II.

Acquisition of land for canals.

41. *(1)* If, in the opinion of the Local Government, any land is required for the purposes of any canal or water-course it shall be deemed to be land required for a public purpose within the meaning of the Land Acquisition Act, 1894. *Cf* Regul. IV of 18[illegible] section 1[illegible] India Act of 1894.

(2) Any person who has obtained the permission of the Local Government to construct, or who owns a canal, may apply in writing to the Collector to take up any land required for the purposes of such canal.

(3) If the Collector is of opinion that the application should be granted, he shall submit it, with his recommendation, for the orders of the Local Government.

(4) If, in the opinion of the Local Government, the application should, whether in whole or in part, be granted, it may direct the necessary action to be taken under the Land Acquisition Act, 1894: India Act of 1894.

Power to acquire canal by consent or otherwise.

42. Whenever it appears to the Local Government expedient in the public interest to acquire any canal, the Local Government may by notification declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than three months from the date thereof. *Cf.* India Act VIII 1873, section 5.

Notice as to claims for compensation.

43. As soon as practicable after the issue of such notification the Collector shall cause public notice to be given at convenient places stating that the Local Government intends to acquire the said canal as aforesaid and that claims for compensation in respect of the acquisition thereof may be made before him. *Cf.* India Act VIII of 1873, section 7.

Enquiry into claims.

44. *(1)* The Collector shall proceed to enquire into any such laims and to determine the amount of compensation, which should be given to the claimant. In assessing such compensation the Collector shall have regard to the history of the canal, the expenditure incurred thereon and the profits of the owner, and shall in other respects be guided by the provisions of the Land Acquisition Act, 1894, and may, for the purpose of inquiring into claims and assessing compensation therefor, exercise all or any of the powers by that Act conferred upon the Collector. *Cf.* India Act VIII of 1873, section 10. India Act of 1894.

Limitation of claims.

(2) No claim for compensation shall be enforceable after the expiration of one year from the date of the notice under section 43, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period. *Cf.* India Act VIII of 1873, section 9.

Vesting of canal in the Government.

45. Subject to the tender and award of compensation to the owner or person interested in the said canal, when the Local Government acquires a canal, under section 37 or on the day named in the notification under section 43,—

(a) the right, title and interest therein of the owner thereof shall forthwith cease and determine;

(b) such canal, subject to any rights to take water for irrigation which any person may have, shall forthwith vest in and be the absolute property of the Government.

Assessment of compensation.

46. With the consent of the parties, the Collector may, when assessing the amount of compensation to be paid, direct, in the case of an acquisition of land under section 41, that the property in such land shall remain with the owner subject to a right of user so long as the land is required for the purpose of the canal or water-course, compensation being awarded for the right of user only, or in the case of an acquisition of a canal, or of land for the purposes of a canal, that the compensation shall take the form in whole or in part of a right to a supply of water from the canal which has been acquired or for the purposes of which land has been acquired.

India t VIII of '3, sec- 55.

Power to prohibit obstructions of river or creek and to order their removal.

47. Whenever it appears to the Local Government that it is desirable in the interests of the owner of, or of the irrigators from, any canal to prevent the obstruction of any river or creek, such Government may, on such terms (if any) as to compensation as it may consider equitable, by notification published in the official Gazette, prohibit within the limit to be defined by such notification the formation of such obstruction or may, within such limits order the removal or other modification of such obstruction or may, by notification published as aforesaid, take power to regulate the flow of water in such river or creek whether by the construction of works or otherwise.

Ind'a VIII of , sec- 56.

Power to remove obstruction after prohibition.

48. The Collector may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

If within the time so fixed such person does not comply with the order, the Collector may himself remove or modify the obstruction, and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

In any case in which such obstruction is not caused or controlled by any person, the Collector may himself remove or modify it.

Powers as to the construction and maintenance of works.

Cf. Regulation IV of 1898, sections 9—12.

49. (1) The Collector may, at any time, order the owner of any canal under Schedule II to—

(a) repair and maintain, in a proper state, all or any embankments, protective works, reservoirs, channels, water-courses, sluices, outlets and other works connected with the canal;

(b) repair and maintain in a proper state any culvert, bridge, aqueduct or similar work at any time existing across, under, or over the canal;

(c) construct a suitable bridge, culvert, or similar work at any place across, under, or over the canal, for the purpose of providing communication with any public road or thoroughfare which was in use before the canal was made;

(d) construct suitable works for the passage of the water of the canal across, under, or over any public road or thoroughfare or any canal or drainage channel which was in use before the canal was made;

(e) construct a suitable regulator at or near the head of the canal where, for want of such regulator, an excessive supply of water may enter the canal or cause damage to it, or any crops, lands, roads or property in the neighbourhood.

(2) In the case of canals included under Schedule I, the Collector may call upon the irrigators from a canal to discharge any of the liabilities specified in sub-section (1) which the Local Government may have declared to attach to the irrigation from such canal or group of such canals.

(3) Every order under sub-sections (1) and (2) shall be in writing, and shall specify a reasonable time within which the works or repairs mentioned therein shall be completely executed.

Power to construct works in case of default.

Cf. Regulation IV of 1898, sections 9—12.

50. If any order made under section 49 is not obeyed, to the satisfaction of the Collector, within the time therein specified, the Collector may himself execute or complete the execution of, or cause to be so executed or completed, all works specified in the order.

(10) disobeys any order or proclamation issued under this Act, or commits any breach of any rule made thereunder;

shall be liable on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees or to imprisonment not exceeding one month, or to both.

Cf. India Act VIII of 1873, section 73.

Power to arrest without a warrant.

66. Any person in charge of or employed upon any canal managed by Government officers or by a District Board may remove from the lands or buildings belonging thereto, or may take into custody without a warrant, and take forthwith before a Magistrate, or to the nearest police station, to be dealt with according to law any person who, within his view, commits any of the following offences :—

(1) wilfully damages or obstructs any canal;

(2) without proper authority interferes with the supply of, or flow of water in or from any canal or in any river or stream, so as to endanger, damage or render less useful any canal.

Definition of 'canal' for purposes of sections 65 and 66.

Cf. India Act VIII of 1873, section 74.

67. In sections 65 and 66 the word 'canal' shall (unless there be some thing repugnant in the subject or context) be deemed to include also all lands occupied for the purposes of canals and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce upon such lands.

Power to make rules.

Cf. Regulation IV of 1898, section 20.

68. *(1)* The Local Government may make rules, consistent with the foregoing sections of this Act, regulating any matter in regard to which any power is, by this Act, conferred upon the Local Government, or upon any officer of Government, and generally to carry out the purposes of this Act.

(2) All rules made under sub-section *(1)* shall be so made after previous publication in the Gazette.

SCHEDULE I.

SCHEDULE II.

H. A. B. RATTIGAN,
Secretary, Legislative Council.

C. L. TUPPER,
Member.

STATEMENT OF OBJECTS AND REASONS.

THE object of the present Bill is to legislate for those minor canals in the Province to which the provisions of the Northern India Canals and Drainage Act of 1873 either were never intended to have any application or are, if applicable under the definition of "canal" in sub-section (1) of section 3 of that Act to a large extent inappropriate. The elaborate provisions of Act VIII of 1873 are in their entirety not suitable, and when suitable are insufficient, in the case of many minor irrigation works which are controlled by, and under the management of, Government officers, while they were never intended to apply at all to those canals which are under private management, but are controlled by Government in the interests of the owners or persons deriving benefits therefrom, and on which State expenditure is confined to the maintenance of a small supervising establishment and all realizations for water-advantages are appropriated to the benefit of the owners of the canal and to its maintenance and are not credited to the State. The present Bill, which is to be self-contained and therefore embodies such of the provisions of Act VIII of 1873 as are considered necessary or suitable to some of the canals which will be governed by its provisions, is intended to make better provision for the exercise of control over, and for the regulation of the management of, both these classes of canals, the degree of such control and management varying as the canal is one under Schedule I or one under Schedule II of the Bill. Power is given to the Local Government by notification to include any "canal," as defined in clause 3 (*ii*) of the Bill, under either Schedule I or Schedule II or to transfer a canal from one schedule to the other schedule, whereupon the provisions of the Bill applicable to canals included under such Schedule or such of those provisions as the Local Government may direct shall apply to such canal. Ordinarily and as a general rule a canal controlled by Government and managed by Government officers or District Boards will in practice be included under the first, and a canal under private management but subject to Government control will be included under the Second Schedule, but this will not be so necessarily, and the decision in every instance is left to the discretion of the Local Government. The Local Government may also, by notification, exclude from the operation of the Bill any canal which has been included under either Schedule I or Schedule II, but so long as a canal is included under one or other of these Schedules nothing in the Northern India Canals and Drainage Act, of 1873, is to apply thereto.

Among the matters for which provision is often necessary in the case of the minor canals, but rarely, if ever, in the case of the larger irrigation works which are managed by the Imperial Irrigation Department and for which Act VIII of 1873 was mainly designed are—

Cher labour arrangements.

Zar-i-nagha funds.

Records-of-rights.

Recovery of rates for special objects.

Settlement of disputes between right-holders.

Hitherto such matters have been provided for in Settlement engagements, and by agreement between Government and those interested in the maintenance of efficient irrigation arrangements, and, generally speaking, the good sense and co-operative spirit of the people have enabled the Government officers charged with the control of the works to conduct operations successfully. But with increased sophistication and the extension of the reign of statutory law it has become necessary in the interest both of Government, of right-holders, and of irrigators to secure a legal basis for what has heretofore rested merely on executive authority, and thus to maintain established and successful systems against invasion by recalcitrant individuals or minorities.

The right of Government to exercise control over private canals is based in part on the fact of the Government title to the water flowing in rivers and streams, which is asserted in the preamble of the Canal Act of 1873, and in part on the same fundamental principles which in India as in other countries have necessitated legislation for the control of railway, shipping, gas and water companies, and all corporations which are in the position of monopolists towards the public or a section of the public. The owner of a private canal is not, like the owner of an irrigation well, independent of relations with all persons outside the ring-fence of his own property. Even when the canal is constructed solely to irrigate the owner's land the interests of the State are involved in the detraction of water from the river or natural stream, and it is rarely the case that the supply channel can be constructed without its bed passing through land belonging to other persons. When, as is more commonly the case, irrigation is supplied not only to the canal-owners' lands, but also to whatever area, however owned, may be commanded by the available supply, relations arise which in the interest of canal-owners and irrigators, and of peace and good government generally, require to be controlled and regulated. Even with such powers as the Bill confers, cases may arise—and they have arisen in the past—in which mismangement on the part of the private canal-owner causes such public inconvenience as to justify Government stepping in and either managing the canal temporarily, accounting for surplus profits or acquiring it permanently under provisions analogous to those of the Land Acquisition Act.

It is also very desirable to make provision in this Bill in respect of canals, rivers, creeks, water-courses and subsidiary works which are situate partly in this Province and partly in Sind or in a Native State such as Bahawalpur. For the proper maintenance of such canals, etc., and their protective works in a state of efficiency and to ensure the due supply of water thereto from the sources in British territory it is often found necessary to do such acts and to exercise such powers as are provided for in this Bill in respect of canals and subsidiary works situated in the Punjab, and it is intended by clause 63 to empower the Local Government to give such assistance to the authorities concerned as will suffice for the maintenance of those canals which are supplied with water from canals situated in this Province.

The provisions of the Bill will now be briefly noticed.

CHAPTER I.

Preliminary.

Clause 1 (1).—The term "Minor Canals" conveniently indicates that the measure relates to canals other than the larger projects managed by the Irrigation Department. The term is not intended to have any technical signification.

Clause 2.—This is new and has already been commented on above.

Clause 3 (iii).—This definition is intended to be read with the proviso to clause 6 (*i*) and the object is to require canal-owners or other persons to obtain the permission of the Collector to the extension of irrigation from a private canal. Practical experience in the Shahpur District has demonstrated the necessity of a provision of this kind.

Clause 3 (iv).—It is desirable to have power to prohibit, or order the removal of obstructions in rivers or creeks, more especially in view of the frequent complaints from Bahawalpur and Sind regarding obstructions in rivers and creeks in the Punjab from which canals in those territories are fed. Provision has accordingly been made for this purpose in clauses 47 and 48 (which are modelled upon sections 55 and 56 of Act VIII of 1873) read with clause 63. The term "creek" as used in these clauses is, therefore, defined in this sub-clause.

Clause 3 (ix).—The owner of a private canal or the irrigator therefrom has no property in the water of the river from which his canal takes off, and the term "water due" is intended to designate the payment which the owner or irrigator has to make to Government for the use of such water.

CHAPTER II.

Construction of Canals and Water-dues.

Clauses 4 to 6—Contain a prohibition against the construction of a new canal which is intended to be fed by the water of any river or stream flowing in a natural channel or of any lake or other collection of still water notified in this behalf by Government. No vested interests are here affected and the prohibition is strictly limited, for it is only in respect of the particular rivers or other natural bodies of water which have been duly notified in this behalf that the prohibition to construct a new canal without permission applies. The right by which Government assumes the powers herein provided has already been explained. The proviso to clause 6 (*i*) must be read in connection with clause 3 (*iii*).

Clause 7 (1).—Assuming that permission has been accorded for the construction of a canal which is intended to be fed by the water of a river or other natural body of water, it is reasonable that Government should have the right to assess and levy water-dues in respect of the water by which such canal is allowed to be fed, but in which the canal-owner has no right of property. As regards canals made before the Bill becomes law, the right of Government to assess and levy such dues is strictly limited to the three cases specified. Ordinarily the method of assessing and levying such water-dues will, when the canal-owner happens to be one and the same person as the owner of the lands irrigated by the canal, be in the form specified in clause 7 *(2) (a)*, but if the owner of the canal is not the owner of such lands, it will be in the form specified in clause 7 *(2) (b)*, but sub-clause (*4*) expressly leaves it to the Government to decide as to the persons deriving benefit from the canal liable to pay the dues.

CHAPTER III.

Provisions applicable to Canals under Schedule I.

Clause 9.—The following explanation of the corresponding clause of the Peshawar Canals Regulation may be quoted here:—

"This is an important section and may be regarded as an addendum to section 32 of the Canal Act of 1873. In the working of a complicated irrigation system in a tract in which sudden floods or other unforeseen contingencies may necessitate, in the interests of the general body of irrigator, temporary departures from the recorded custom of irrigation, it is most desirable to protect the Canal authorities from interference on the part of litigiously inclined persons complaining of merely technical infringements of rights. While, therefore, giving to the Collector plenary power to override recorded rights in the cases contemplated, it is laid down that the exercise of such power shall not *substantially* diminish the benefits to which any person may be legally entitled. There is thus a safeguard against any real and substantial injury, as distinguished, for instance, from the fancied injury of a right-holder whose supply of water being much beyond his requirement is reduced in the interests of another who is suffering from a short supply.

Clause 9 (1) (b)—Does, however, give the Collector power to stop the supply of water whenever a water-course sluice or out-let is not properly maintained or whenever a water-course, sluice or outlet is subject to wilful damage or enlargement and to that extent goes further than the clause in the Peshawar Canals Regulation above referred to. This is a very necessary provision and is on the lines of section 32 (*a*) *(2)* of Act VIII of 1873.

Clause 9, sub-clause (2).—The justification of this sub-clause lies not only in the fact that the power of altering the distribution of the water-supply is one that is already exercised in practice, but also in the fact that the regulation of such distribution is essential for the purpose of securing an efficient *general* supply and of preventing the evil of water-logging. As any action that may be taken under this clause will be for the benefit of the community, the individual whose supply may have been diminished in order to maintain a proper general distribution, cannot fairly claim to be compensated by Government, and, apart from any other objection, to allow claims for compensation in such cases would be to render the provisions of the clause entirely nugatory, as the Local

Government could scarcely be expected to act under those provisions if it were likely to be flooded with such claims and probably embarrassed by consequent litigation. On the other hand, whenever the person liable for the payment of the ordinary charges for the use of water has suffered a sensible diminution of his supply he should obviously be relieved of a proportionate part of his liability.

Clause 9, sub-clause (3)—Is adopted from the Northern India Canals and Drainage Act, 1873, and seems to be very necessary.

Clauses 10 and 11—Merely reproduce, with necessary modifications, sections 14 and 15 of Act VIII of 1873.

Clause 12.—This clause provides for obtaining immediate possession of land to be acquired without waiting for the preliminary notification under Act I of 1894 in certain cases. The cases in which the acquisition of land for new heads or for other emergent purposes on inundation canals is most urgent, are very frequent and justify a departure from the procedure under the Land Acquisition Act. A similar section is made applicable by the Peshawar Canals Regulation of 1898 to all canals in the Peshawar Division, including the Swat Canal.

Clause 13—Gives authority to the Collector or any person acting under his orders to occupy land adjacent to a canal (1) for depositing soil excavated from a canal, (2) for excavating earth for repairs to the banks of canals, and provides (3) for the payment of compensation in such cases to be rendered as provided by clause 10 of the Bill, and enacts that compensation is to be allowed for any damage that may be occasioned. This clause has been framed to meet difficulties which are experienced when water is urgently required and repairs have to be done quickly. Sub-clause *(2)* gives the owner of any land that has been occupied for any purpose under sub clause *(1)* for a period exceeding three years the right to insist on such land being permanently acquired.

Clauses 14, 15, 16 and 17—Merely reproduce, with necessary modifications, the provisions of sections 20, 21, 22 and 23 of Act VIII of 1873.

Clause 18—Provides for the settlement of disputes regarding the use of water or the use and maintenance of water-courses and for the determination of objections to applications under clause 15 or 17. In all such cases the Collector shall give notice of the hearing to all persons interested and on a specified date shall proceed, to adjudicate, as a Revenue Court under the provisions of the Punjab Tenancy Act of 1887, upon the matter in dispute. Objections and disputes of the kind referred to in this clause can be determined more expeditiously and satisfactorily by the Collector than by the Civil Courts, but in order that the proceedings of the Collector shall not be unduly summary and to avoid the possibility of hardship in any particular case, it is provided that he shall sit as a Revenue Court when hearing such disputes or objections and that his decision shall be open to appeals, revisions or reviews in the same manner and to the same extent as the orders of a Revenue Court ordinarily are under the provisions of the Punjab Tenancy Act, 1887.

Clauses 19 and 20—Reproduce, with slight modifications, the provisions of sections 28 and 29 of Act VIII of 1873.

Clause 21—Is new, and empowers a Collector to construct or repair or improve sluices and outlets and, if he so thinks fit, to construct a new water-course subject to the provisions laid down in clause 41.

Clause 22—Is new, and gives power to an owner or the Collector on his own motion where several water-courses run for a long distance side by side and the economical use or proper distribution of water is thereby prevented or hampered, to insist that all the water shall be allowed to run through one water-course or that an approved system of distribution shall be substituted. The Collector may if necessary himself execute all necessary works in which case the cost will be recovered as in clause 24 provided. The equitable distribution of water after the realignment has been effected is provided for in sub-clause (3). This new clause has been added as it has been found by experience that some of the water-courses running so close together have had to be abandoned as they silted up, and there was no ground on which to place the silt or if there was, the expense was so great of conveying it over the other water-courses that it would not pay the owners to incur it.

Clause 23—Reproduces without alteration the provisions of section 30 of Act VIII of 1873.

Clause 24.—The object of this clause is to give practical effect to the powers of management and control conferred on the Collector under this Bill. It has often been found that improvements have been retarded or prevented by want of funds, and the provisions of this clause, read with clauses 21 and 22, will enable the Local Government to

effect such improvements and, if it thinks fit, to recover the expenses from such persons deriving benefit therefrom as, having regard to the history of the canal and the incidence of the water-rates, it may consider properly liable for the same. The result is likely to be economy of labour and water-supply, and beneficial extension of irrigation.

Clause 25—Is intended to provide for cases in which interference with recorded rights may result in substantial diminution of benefit to which a person is legally entitled and in respect of which a claim for compensation would equitably arise. It may occasionally occur that the existence of private rights of particular individuals becomes a menace to the interests of the irrigators in general, and the extinction of such rights under the procedure here contemplated would then be necessary. By sub-clause *(2)*, however, it is provided that in every such case compensation shall be awarded to the person whose right is suspended or extinguished, and, as in assessing such compensation, the peculiar circumstances of canals necessitate the consideration of matters additional to those specified in section 23 of Act I of 1894, certain guides to assessment have been provided which are likely to prove of practical value.

Clauses 26 and 27—Make provision for controlling and regulating the system of clearance of canals by the labour of the people. It has been decided that rules in this behalf cannot be made under Act VIII of 1873. The custom which it is sought to legalize is one which prevails in many districts of the Punjab. It is one which is thoroughly understood and acquiesced in by the people generally, and it is not proposed to introduce it anywhere except where it already exists or in accordance with the wishes of the persons interested. The broad principle underlying this system is that it is more in the interests of the great majority of the irrigators and of economical administration that the canal clearance works should be done by their own labour and that they should escape water-rates than that they should have to pay water-rates, from the proceeds of which the clearance work would be carried out by hired labour. It will be observed that provision is made to meet the case of those who prefer to commute their obligations to furnish labour by a cash payment, so that the system cannot be described as one of forced labour.

Clause 28.—Records of the nature contemplated in this clause already exist for many canals in a very complete and elaborate form. They are appealed to in all irrigation disputes, and are locally regarded as documents carrying the weight of authority. It is on all hands considered desirable that to these records the same presumption of truth should attach as is provided in the case of entries in records-of-rights by section 44 of the Land Revenue Act, 1887. Rule 202, under the Land Revenue Act, it is true, provides for the record of "customs relating to the irrigation of land" and "customs relating to mills, tanks, streams or natural drainages" among the matters included in the *wajib-ul-arz* or village administration paper, but this document and the statement of rights of irrigation which forms a part of the standing record-of-rights are prepared for each estate separately, whereas irrigation records are generally prepared for each canal.

Clause 29 (1) and (2)—Provide for the levy of water-rates in respect of all lands irrigated from a canal under Schedule I, and empower Government by general or special rule to direct from what persons, deriving benefit from the said canal, such rate shall be leviable. These sub-clauses correspond generally with section 31 of Act VIII of 1873.

Clause 29 (3)—Is intended to define certain cases in which an *abzai* or waste-of-water special penal rate can be levied. Such rate can at present be levied generally under the rules made under Act VIII of 1873.

CHAPTER IV.

Provisions applicable to Canals included under Schedule II.

Clause 31—Provides that the consent or decision of the share-holder or share-holders who possess the larger interest in a canal shall be binding upon every other share-holder in all cases in which any question arising under the Bill or rules made thereunder is to be determined by the consent or decision of the owner. If the interests of the share-holders are equally divided, the decision is to rest with the Collector.

Clause 32—Is similar in its general purport to clause 18 and makes provision for the settlement of disputes by the Collector sitting as a Revenue Court under the provisions of the Punjab Tenancy Act of 1887.

Clause 33—Is intended to prevent the whole working of a canal being paralysed by disputes or uncertainty as to the person or persons in whom the management is to vest, and enables the Collector in certain cases to declare what person shall be deemed to be, or to appoint a person to be, the Manager of such canal and the representative of the share-holders.

Clause 34—Enacts for canals under Schedule II a provision corresponding to clause 28 in the cases of canals under Schedule I.

Clause 35—Enables the Government to assume or to delegate to a person the management of a canal in certain cases, but in all such cases the Government, in the absence of any decree or agreement to the contrary, will remain liable to account to the owner for the net profits of the canal.

Clause 36—Gives the owner of a canal, of which the management has been assumed by Government, under the preceding clause, a right to demand that the Government management shall be converted into permanent acquisition, with payment of compensation, when the period of management has extended beyond 12 years.

Clause 37—Is largely based on section 5 of Act VIII of 1873, and provides for the procedure to be followed when a canal is to be acquired on the demand of the owner.

Clause 38—Is important and enables Government to protect irrigators from arbitrary action on the part of canal-owners who might take advantage of their position as monopolists to withhold the water-supply or enhance the charges therefor in a capricious and inequitable manner. It is thought preferable to provide that the Local Government shall proceed by *orders* rather than by *rules*, as the circumstances of the cases which would arise are too various to admit of any uniform set of instructions. The enforcement of obedience to such *orders* is provided for in clause 65, and clause 35 (*1*) (*c*) makes provision for the consequences of a wilful and continuous breach of the said orders. Unless the conduct of the canal-owner has been such as to disentitle him to consideration, compensation is to be paid whenever by reason of an order under this clause the land is deprived of irrigation or the income of the canal-owner for such canal is materially reduced.

Clause 39—Is framed in the interests of canal-owners and enables them to enlist the assistance of the Collector in the recovery of their just dues from the irrigators.

CHAPTER V.

Provisions applicable to all canals.

Clause 41—Makes the Land Acquisition Act of 1894 applicable in the case of land required for a canal or water-course under either Schedule I or Schedule II.

Clause 42—Enables Government to acquire a canal whenever it appears expedient that such canal shall be acquired.

Clauses 43 and 44—Are based on sections 5, 7, 9 and 10 of Act VIII of 1873 and make provision for the procedure to be followed in cases of acquisition of canals under the provisions of the Bill.

Clause 45—Provides for the permanent vesting in Government of a canal acquired under clause 37 or clause 42.

Clause 46.—If the owner consents, the form which compensation in respect of the acquisition of land or of a canal under the provisions of the Bill may take may be in whole or in part of a right to a supply of water.

Clauses 47 and 48—Are based on sections 55 and 56 of Act VIII of 1873. The necessity for these provisions has been explained under clause 3 (*4*) above.

Clauses 49 to 52—Impose upon owners of any canal under Schedule II and in certain cases upon irrigators from a canal under Schedule I the duty of keeping the canal banks in repair, of providing the public with the means of crossing the canals, and of passing the canals over or under roads. The obligation is an obvious one in the case of private canals. In the case of the "larger" canals which are not regulated by this Bill the duty is generally assumed by Government, but in the case of canals included under Schedule I of the Bill occupier's rate is not levied and Government levies no fund from which the cost of such works could be defrayed. Hence it may be necessary to call upon irrigators to carry out the necessary works. If they, or in the case of canals under Schedule II the owners, fail to do so, and in any case if the matter is urgent, provision is made for the Collector to do what is needful and to recover the cost from those who are liable. Provision has also been made in *clause* 51 to enable the Collector in cases of emergency to call upon the irrigators to furnish as many labourers as the Collector may deem necessary for the immediate execution of the work. A somewhat similar provision is to be found in section 65 of Act VIII of 1873.

Clause 53.—This clause empowers Government to regulate the construction and use of mills The diversion and misappropriation of water by mill-owners has often been found to give rise to disputes and cause inconvenience and a statutory power to regulate mills is necessary. It may be thought that the powers of preventing obstruction given by section 70 of the Canal Act would suffice, but these powers can only be exercised after the obstruction actually takes place. It is in every way preferable that the obstruction caused by a mill should be prevented beforehand rather than that the mill-owner having incurred the expense of erection should be compelled to demolish the structure.

Clause 54—Makes sections 13 to 16 of the Punjab Land Revenue Act, 1887, applicable (unless a contrary intention is expressed) to all proceedings under this Bill, and thereby enacts a well-known form of procedure which persons affected by this Bill can adopt.

Clause 55—Excludes the jurisdiction of the Civil Courts in reference to decisions and orders passed under the authority of this Bill, except so far as such orders may be affected by any procedure under the Land Acquisition Act which has been made applicable to this Bill.

Clause 56—Gives power to the Local Government to appoint Canal Officers and other persons to perform the functions and exercise the powers conferred on or vested in the Collector, Commissioner, Financial Commissioner or the Local Government. Read with clause 54, this clause will have the effect of making the provisions of sections 13 to 16 of the Punjab Land Revenue Act, 1887, applicable to the proceedings of all persons appointed under it and will enable the Local Government to appoint such persons as it may think fit to exercise appellate or revisional jurisdiction in respect of the proceedings of persons appointed to perform the functions of Collectors under the Bill.

Clause 57—Defines the powers of Collectors in certain cases.

Clause 58—Gives permission to owners and other parties interested in the canal to object and appear before the Collector to show cause against certain specified orders.

Clause 59—Prescribes the mode of serving notices, &c.

Clause 60—Bars compensation where not expressly allowed under the Bill.

Clause 61—Directs that Government shall be made a party to any suit or proceeding which may be instituted under the powers of clauses 27, 28 and 34 of the Bill.

Clause 62—Provides for the recovery by revenue process of water-rates and other charges leviable under any provision of the Bill or under an agreement entered into by the owners of, or irrigators from, a canal.

Clause 63—Has been already explained in the preliminary remarks and under clause 3 (*4*).

Clause 64—Protects persons acting in good faith under the authority of this Bill or rules made thereunder.

Clauses 65, 66 and *67*—Are taken with slight modifications from sections 70, 73 and 74 of Act VIII of 1873. They particularise the offences made punishable under the provisions of the Bill, give power to certain persons and in specified circumstances to arrest without a warrant, and define the term canals for the purposes of clauses 65 and 66.

Clause 68—Gives the Local Government the very necessary power to make rules consistent with the provisions of the Bill.

H. A. B. RATTIGAN,
Secretary, Legislative Council.

C. L. TUPPER,
Member.

Punjab Government Press, Lahore—24-12-03—725.

Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, DECEMBER 31, 1903.

PART V.

Bill was introduced in the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations.

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[Second publication.]

THE following Bill was introduced in the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations on the 23rd December 1903:—

BILL No. 2 of 1903.

A Bill to amend the Sind-Sagar Doab Colonisation Act, 1902.

WHEREAS it is expedient to amend the Sind-Sagar Doab Colonisation Act, 1902: *Punjab Act I of 1902.*

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Sind-Sagar Doab Colonisation (Amendment) Act, 190 .

Substitution of new sub-section for sub-section (2) of section 1 of Act I of 1902.

2. For section 1, sub-section *(2)*, of the Sind-Sagar Doab Colonisation Act, 1902, the following sub-section shall be substituted, namely— *Punjab Act I of 1902.*

"*(2)* It extends to the territories situate between the river Indus and the rivers Jhelum and Chenab and lying within the limits of the Mianwali, Shahpur, Muzaffargarh and Jhang Districts, respectively, of the Punjab, and commonly known as the Sind-Sagar Doab; and"

Addition of new section after section 11, Act I of 1902.

3. After section 11 of the Sind-Sagar Doab Colonisation Act, 1902, the following section shall be inserted, namely— *Punjab Act I of 1902.*

Power to declare the area restored to be subject to the encumbrances existing on the land surrendered.

"11 A. *(1)* When the Government makes a restoration of rights in any area equal to one-fourth of the land surrendered to Government, in pursuance of an agreement under this Act and in accordance with section 5, proviso (*b*), the Deputy Commissioner

may, after giving such notice as he may think necessary to the persons whom he considers interested, make an order declaring the rights so restored to be subject to such encumbrances or so much thereof, as existed at the time of such surrender on the whole or any portion of the area originally surrendered, and as may seem to him to be just and reasonable.

"*(2)* When a declaration such as is mentioned in sub-section *(1)* has been made it shall be deemed to be a mortgage and, notwithstanding anything in the Indian Registration Act, 1877, or in the Indian Stamp Act, 1899, it shall have full force and effect without being registered or stamped, and may be enforced by the person or persons therein stated to be entitled to the rights declared, or by his or their legal representatives or assigns.

India Act III of 1877. India Act II of 1899.

"*(3)* If at the time of making such an order as is mentioned in sub-section *(1)*, any question is raised as to the existence or validity of any such encumbrance, or as to the amount or rights recoverable or enforceable thereunder, the Deputy Commissioner may decline to make the order until the said question has been finally determined by a competent Civil Court and on the final determination of the said question or questions the Deputy Commissioner may make the order in accordance with such decision.

"*(4)* The Deputy Commissioner may himself inquire into and determine any such question or questions, but if he allows the claims of the mortgagee in whole or in part, the shall not make an order under sub-section *(1)* until after the expiry of the period of limitation provided for an appeal from his decision under section 13.

"*(5)* A right or interest in land acquired by any person under an order made by the Deputy Commissioner under sub-section (4) or under an order made on an appeal from the Deputy Commissioner's decision under that sub-section shall be open to revision in the manner provided in Section 16 of the Punjab Land Revenue Act, 1887, but shall not otherwise be called in question in any Civil Revenue Court."

India Act XVII of 1887.

4. Section 14 of the Sind-Sagar Doab Colonisation Act, 1902, is hereby repealed and the following section is substituted therefor namely:—

Punjab Act I of 1902.

"14. Every agreement for the surrender of land in the territories to which this Act extends, taken and executed since the first day of January 1901, and all conditions prescribed by the Local Government, and all enquiries, declarations or appointments made, decisions passed, proclamations or notices issued, and all other acts or things done since the date aforesaid which might be done by a Deputy Commissioner under this Act, shall, so far as they relate to the purposes, and are consistent with the provisions, of this Act, be deemed to have been taken and executed, prescribed, made, passed, issued or done, as the case may be, by the Local Government or a Deputy Commissioner under this Act, and shall have the same effect and validity as if this Act had come into force on the date aforesaid."

H. A. B. RATTIGAN, C. L. TUPPER,

Secretary, Legislative Council. *Member.*

STATEMENT OF OBJECTS AND REASONS.

IN returning the Sind-Sagar Doab Colonisation Act, I of 1902, with the assent of His Excellency the Viceroy and Governor-General signified thereon, it was pointed out by the Government of India in their letter No. 73, dated the 14th January 1902, that some degree of hardship might not impossibly result from the wording of the provisions thereof as regards the position and rights of mortgagees. The Government of India considered that the rights of a mortgagee over land surrendered by an agreement under Section 4 would be preserved only where and in so far as the whole or part of the specific area originally mortgaged is handed back to the mortgagor or his representative or assign but where and in so far as that specific area is not handed back, but is retained by the Government, the rights of the mortgagee must disappear. Moreover, the rights which are surrendered to the Government would be those of the mortgagor, and not those of the mortgagee, the latter being expressly precluded from being a party to the agreement and from having any rights in relation to the Government and consequently the Government when it "restores" rights in accordance with sub-head (*b*) of the proviso to Section 5 cannot possibly transfer to the area handed back the operative effect of a mortgage applying by its terms to an area retained.

From the Government of India Notification No. 5780, dated 25th October 1900, and Punjab Government Notification therein cited it will be seen that the districts of Bannu and Dera Ismail Khan had ceased to belong to the Punjab at the time that the Act received the assent of the Governor-General. Portions of the Dera Ismail Khan District, namely the Tahsils of Leiah and Bhakkar, which were not included in the North-West Frontier Province, were with Isa Khel made into a new district called the Mianwali District. The result of this is understood to be that (1) the Act does not extend to the area comprised in the new Mianwali District and (2) in so far as the Act is said to extend to the territories within the limits of the Bannu and Dera Ismail Khan Districts, it is *ultra vires* and void as the expressions "Bannu District," "Dera Ismail Khan District" can only mean the Bannu and Dera Ismail Khan Districts as existing at the time when the Act came into force.

It is therefore proposed to amend sub-section 2 of Section 1 of the Act by substituting therefor a new sub-section in which the word "Mianwali" is substituted for the words "Bannu, Dera Ismail Khan."

As the amendment of the Act was thus necessary, the opportunity was taken to amend it also on the lines suggested by the Government of India. To effect this, it is proposed to add a new section after Section 11, which provides that in eventually handing back an area equal to one-fourth of the land surrendered in the first instance, the Deputy Commissioner may make an order declaring that area to be subject to such encumbrances as may seem to him to be just and reasonable, such order being declared to be binding on the Courts and enforceable as a mortgage, without being stamped or registered as such. A discretion has been left to the Deputy Commissioner to make such an order or not as he sees fit. The question will usually be decided by the Colonisation Officer, who will, for the purposes of the Act, be appointed to perform the functions of the Deputy Commissioner under the Act, and he will be in a position to decide whether equitably such an order should or should not be made.

It has also been considered whether sub-section 1 should read "as legally existed at the time of such surrender." It was thought better not to impose upon the Deputy Commissioner the burden of deciding possibly intricate questions on objection being raised to the legality or validity of the original mortgage. The word "legally" was therefore not inserted and the procedure adopted in Section 117 of the Punjab Land Revenue Act, 1887, was adopted and embodied in sub-section 3 to the present section. By this sub-section a discretion is given to the Deputy Commissioner, on any objection being raised to his making such an order, to either proceed to decide the objection himself, which he would do if it was clearly vexatious and frivolous or involved no difficult questions, or to decline to make an order until the dispute had been finally decided by the Civil Courts.

If he does proceed to decide the matter himself his decision will be appealable as provided in Section 13 of this Act and a proviso to this sub-section 3 has been added that an order shall not be made until the period of limitation for an appeal from his decision has expired.

It has also been brought to notice that Mr. Hailey took a large number of signatures as Assistant Settlement Officer, Dera Ismail Khan, and these were provided for in Section 14 (1) of the Act so far as the territories to which the Act extended were concerned, but the section does not cover the new Mianwali District. He also took a few as Settlement Officer and has taken a very large number as Colonisation Officer, Jhelum Canal. In order to validate all that has been done by him Section 14 has been entirely repealed and re-enacted in general terms. The two sub-sections have been consolidated into one and for the sake of uniformity all acts or things done since the 1st January 1901 have been legalised, it having been ascertained that it is not necessary to go further back than that date.

C. L. TUPPER,

H. A. B. RATTIGAN,

Member.

Secretary, Legislative Council.

[Second publication.]

THE following Bill was introduced in the Council of the Lieutenant-Governor of the Punjab for the purpose of making Laws and Regulations on the 23rd December 1903 :—

The Punjab Minor Canals Bill.

CONTENTS.

CHAPTER I.

Preliminary.

PUNJAB GOVERNMENT.

LEGISLATIVE DEPARTMENT.

[Second publication.]

Bill No. 3 of 1903.

A Bill to Make better provision for the control and management of minor canals in the Punjab.

WHEREAS it is desirable to make better provision for the exercise of control over and for the regulation of the management of certain minor canals in the Punjab;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and local extent.

1. *(1)* This Act may be called the Punjab Minor Canals Act of 190 .

(2) It shall extend to the whole of the Punjab.

Operation of Act.

2. *(1)* The provisions of this Act shall apply, to the extent and in the manner hereinafter provided, to every canal specified in either Schedule I or Schedule II as the case may be.

(2) At any time after the passing of this Act, the Local Government may, from time to time, by notification—

(a) include any canal under either Schedule I or Schedule II, as the case may be, or transfer a canal from one schedule to the other schedule, and thereupon the provisions of this Act applicable to canals included under such schedule, or such of the said provisions as the Local Government may direct, shall apply to such canal; or

(b) exclude from the operation of this Act any canal which now is, or hereafter may be, included under either Schedule I or Schedule II :

Provided that, unless for special reasons, only those canals will be included under Schedule I which are managed by Government Officers or District Boards

India Act VIII of 1873.

(3) The Northern India Canal and Drainage Act, 1873, shall not apply to any canal which is for the time being included under either Schedule I or Schedule II.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context—

(i) "Collector", "Commissioner" "District", "Estate", "Record-of-Rights", "Revenue Officer" and "Village Officer" have the meaning assigned to them respectively in the Punjab Land Revenue Act, 1887; India Act XVII of 1887.

(ii) "Canal" means any canal, channel, or reservoir constructed or maintained for the supply or storage for irrigation of the water of any river or stream or of any lake or other natural collection of water, and includes any water-course or subsidiary works as defined in this section;

(iii) "Construction" and "construct" include any alteration which would materially extend the area irrigated by a canal or any other alteration of material importance or effect or renewal after disuse for six years, but do not include the re-excavation of a canal head which has been temporarily abandoned owing to a change in the river, the excavation of a new head necessitated by a change in the river or a change of water-courses to render existing irrigation more efficient;

(iv) "Creek" means any channel of a river other than the main channel through which the water of the river would, unless obstructed by deposit of silt, naturally flow at some period of the year;

(v) "Irrigator" means in respec any land which is irrigated from a canal any person for the time being directly deriving benefit by such irrigation and includes a land-owner or occupancy tenant of such land;

(vi) "Labourer" includes persons who exercise any handicraft specified in rules to be made in this behalf by the Local Government; Cf. India Act VIII of 1873, section 63.

(vii) "Subsidiary works" mean all works required for the maintenance of the supply to a canal or for the maintenance of a canal in proper condition or for the regulation of the irrigation therefrom or for the prevention of floods or for the provision of proper drainage in connection with such irrigation, and include also the land required for such works;

(viii) "Water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of the person at whose cost such canal is maintained, and includes all subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel;

(ix) "Water-due" means whatever is payable to Government in cash or kind by the owner of a canal or by an irrigator therefrom for the use by such owner or irrigator for the purposes of such canal of the water of any river or stream flowing in a natural channel and of any lake or other natural collection of still water;

(x) "Water-rate" means the charge made for canal water, but does not include any canal-advantage land-revenue rate.

CHAPTER II.

CONSTRUCTION OF CANALS AND WATER-DUES.

Cf. Regulation IV of 1898.

Prohibition against construction of canals without permission.

4. No person shall, without permission previously obtained in the manner prescribed in the section next following, construct a canal intended to be fed by the water of any river or stream flowing in a natural channel or of any lake or other collection of still water notified in this behalf from time to time by Government:

Provided that nothing in this section contained shall apply to the construction of a water-course from an existing canal.

Application for permission and procedure thereon.

5. *(1)* Any person desiring to construct a canal intended to be fed from any source of supply which has been notified by Government under section 4, may apply, in writing, to the Collector, for the permission prescribed in that section.

(2) Every application under sub-section *(1)* shall be in such form and shall contain such particulars as the Local Government may prescribe in that behalf.

(3) The Collector shall dispose of the application in accordance with the rules (if any) made by the Local Government under the authority of this Act.

Cf. Regulation IV of 1898, sections 6 and 7.

Power to prohibit the unauthorised construction of and to close unauthorised canal.

6. *(1)* If any person, without the permission necessary under sections 4 and 5 of this Act, or contrary to any of the conditions of such permission, commences to construct or proceed with the construction of any canal, the Collector may, at any time, by order in writing, prohibit such person, and, by general proclamation, all other persons, from continuing the construction thereof:

Provided that, unless in the case of a construction which would materially extend the area irrigated by a canal, no such direction, order or proclamation, as the case may be, shall be made or issued in respect of any canal which, at the time when it is proposed to make or issue such direction, order or proclamation, has been used for irrigation for a period of three years without interruption, other than such as was due to natural causes beyond the control of the person aforesaid.

(2) If any person shall, at any time after the passing of this Act, construct a canal without the permission necessary under sections 4 and 5 of this Act, the Collector may, with the previous sanction of the Local Government, close it and shut off the supply of water thereto, and may further, by order in writing, prohibit such person, and, by general proclamation, all other persons, from maintaining, repairing or renewing such canal or continuing to use the water thereof.

Water-dues.

7. *(1)* Subject to the conditions, if any, imposed or agreed to by the Local Government such Government may assess and levy water-dues in respect of—

(i) canals made after the commencement of this Act;

(ii) canals made before the commencement of this Act—

(a) when the right to, or question of, water-dues has been expressly reserved by such Government, or

(b) when the conditions upon which the owner of the canal has been allowed to use the water have been agreed on for a term and that term has expired, or

(c) when such water-dues were already levied at the commencement of this Act.

(2) Such dues may be levied in the form of either (*a*) a rate imposed on all lands irrigated by such canal and not exceeding half the sum which under the rules for the time being in force for the assessment of land revenue might be assessed on such land on account of the increase in the value or produce thereof caused by the irrigation from the canal, or (*b*) a lump annual sum not exceeding one-half of the average annual net profits from the canal accruing to the owner thereof.

(3) For the purposes of sub-section *(2)* land which is permanently settled or held free of revenue, shall be dealt with as if it were temporarily settled and liable to assessment of revenue.

(4) Such water-dues shall be leviable from such persons deriving benefit from the canal as the Local Government may, by general or special rule, direct and in case of default shall be recoverable by the Collector as if they were arrears of land revenue.

CHAPTER III.

PROVISIONS APPLICABLE TO CANALS UNDER SCHEDULE I.

This chapter applicable only to canals under Schedule I.

8. The provisions of this chapter shall apply only to canals for the time being included under Schedule I.

General powers of Collector.

9. *(1)* Notwithstanding the existence of any rights in or over a canal or water-course, the Collector may—

(a) exercise all powers of control, management and direction for the efficient maintenance and working of such canal or for the due distribution of the water thereof; and

Cf. section 32 (a) (2) of Act, VIII of 1873.

(b) whenever and so long as any water-course sluice or outlet is not maintained in proper customary repair, or any water-course sluice or outlet through which water is supplied to any person, or, in the case of a sluice or outlet, to any water-course or any person, is subjected to wilful damage or wrongful enlargement, stop the supply of water to such water-course sluice or outlet or to any person.

(2) No claim shall be enforceable against the Local Government for compensation in respect of loss caused by any order passed under sub-section *(1)*, but any person suffering loss by reason of any order passed under sub-section *(1) (a)* may claim such remission of the ordinary charges payable for the use of the water as is authorised by the Local Government.

Cf. India Act, XV of 1877.

(3) No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1877, nor shall Government be bound to supply any person with water.

Cf. India Act, VIII of 1873, section 14.

Power to enter and survey, &c.

10. The Collector or other person acting under the general or special orders of the Collector may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon;

and dig and bore into the sub-soil;

and make and set up suitable land-marks, level-marks and water-gauges;

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Collector;

Power to clear land.

and, where otherwise such enquiry cannot be completed, the Collector or such other person may cut down and clear away any part of any standing crop, fence or jungle;

Power to inspect and regulate water-supply.

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal:

Notice of intended entry into houses.

Provided that, if such Collector or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Compensation for damage caused by entry.

India Act, I of 1894.

In every case of entry under this section, the Collector shall assess and pay compensation for any damage which may be occasioned by any proceeding under this section, and in assessing such compensation the Collector shall be guided by the provisions of the Land Acquisition Act, 1894, and may, for the purpose of inquiring into claims and assessing compensation therefor, exercise all or any of the powers by that Act conferred upon the Collector.

Power to enter for repairs and to prevent accidents.

Cf. India Act VIII of 1873, section 15.

11. In case of any accident happening or being apprehended to a canal, the Collector or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage to land.

India Act, I of 1894.

In every such case, the Collector shall assess and pay compensation for any damage which may be occasioned by a proceeding under this section, and in assessing such compensation the Collector shall be guided by the provisions of the Land Acquisition Act, 1894, and may, for the purpose of inquiring into claims and assessing compensation therefor, exercise all or any of the powers by that Act conferred upon the Collector.

Cf. Regulation IV of 1898, section 18.

Power to take immediate possession in cases of urgency.

12. *(1)* In cases of urgency, if any new work is immediately required to prevent serious detriment to the utility of any canal, the Collector may, notwithstanding anything in the Land Acquisition Act, 1894, contained, take immediate possession of any land required for the construction of the work.

India Act, I of 1894.

(2) In every such case the Collector shall award compensation as laid down in section 10.

Power to occupy land adjacent to canal for depositing soil from canal and to excavate earth for repairs to the banks and compensation for damage.

13. *(1)* The Collector or any person acting under his general or special orders in this behalf may, within such distance from the canal as the Local Government may by rule determine, occupy land adjacent to any canal for the purpose of—

(*a*) depositing upon it soil excavated from the canal, or

(*b*) excavating from it earth for repairs to the banks of the canal.

Compensation for any damage which may be occasioned by any proceeding under this section shall in such cases be tendered or awarded in the manner provided by section 11 of this Act.

(2) The owner of any land which has been occupied for any purpose under sub-section *(1)* for a period exceeding three years may require that such land shall be permanently acquired in accordance with provisions of section 41.

Cf. India Act, VIII of 1873, section 20.

Supply of water through intervening water-course.

14. Whenever application is made to a Collector for a supply of water from a canal, and it appears to him expedient that such supply should be given, and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making enquiry on such day, the Collector shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

When the Collector determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Commissioner, be binding on the applicant, and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Collector or Commissioner may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application for construction of new water-course.

15. Any person desiring the construction of a new water-course may apply in writing to the Collector, stating— Cf. India Act VIII of 1873, section 21.

(i) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(ii) that he desires the Collector, in his behalf and at his cost, to do all things necessary for acquiring such right;

(iii) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of Collector thereupon.

16. If the Collector considers— Cf. India Act, VIII of 1873, section 22.

(i) that the construction of such water-course is expedient, and

(ii) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 19;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out.

Application for transfer of existing water-course.

17. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Collector stating— Cf. India Act, VIII of 1873, section 23.

(i) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;

(ii) that he desires the Collector, in his behalf, and at his cost, to do all things necessary for procuring such transfer;

(iii) that he is able to defray the cost of such transfer.

Procedure thereupon.

If the Collector considers—

(a) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(b) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 19 in respect of such transfer :

and, upon such deposit being made, he shall publish a notice of the application in every village affected.

Settlement of disputes.

18. *(1)* When a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use of the water of any canal, or in respect of the use or maintenance of a water-course supplied with water therefrom and any such person applies in writing to the Collector stating the matter in dispute, or when, within thirty days from the publication of a notice under section 16 or section 17, as the case may be, any person interested in the land or water-course to which the notice refers, applies to the Collector as aforesaid, stating his objection to the construction or transfer for which application has been made, the Collector shall give notice to the other persons interested that, on a day to be named in such notice or any subsequent day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute or into the validity of such objections as the case may be.

(2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute or the objection as the case may be, as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887, and the provisions of that Act regarding appeals, revisions and reviews shall be applicable.

India Act. XVI of 1887.

Cf. India Act, VIII of 1873, section 28.

Expenses to be paid by applicant for construction or transfer of water-course before receiving occupation.

19. No applicant under section 15 or section 17, as the case may be, shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation.

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, 1894; but he may, if the person to be compensated so desire, award such compensation in the form of a rent charge payable in respect of the land or water-course occupied or transferred or in the form of a right to a supply of water from the water-course.

India Act I of 1894.

Recovery of compensation and expenses.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

Conditions binding on applicant placed in occupation.

20. *(1)* When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest :—

Cf. India Act, VIII of 1873, section 29.

(a) In all cases,

First.—All works necessary for the passage across such water-course or water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Collector.

Second.—Land occupied for a water-course under the provisions of section 16 shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land.

(b) In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge,

Fourth.—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the aplicant is placed in occupation.

Fifth.—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such person as the Collector determines.

Sixth.—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

(2) If any of the rules and conditions prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously, the right of the applicant, or of his representative in interest to occupy such land or water-course shall cease absolutely.

Construction of outlets from canals and of new water-courses by Collector.

Cf. Regulation IV of 1898, section 17.

21. *(1)* The Collector may construct or repair or improve a sluice or outlet to regulate the supply of water from a canal to any water-course.

(2) The Collector, when he considers it necessary or expedient that a new water-course should be constructed, may construct such water-course subject to the provisions of section 41.

Power to convert several water-courses running for a long distance side by side into one water-course.

22. *(1)* In cases where there are water-courses running for a long distance side by side and so situated as to interfere with the economical use or proper management of the water-supply, the Collector, if applied to for that purpose, or on his own motion may require the owners to make arrangements to his satisfaction to unite the water-courses or to substitute for them such system as may have been approved by him.

(2) If the owners fail within such time as the Collector may fix to comply with any order passed by him under sub-section *(1)*, the Collector may himself execute the work.

(3) Whenever a water-course has been reconstructed or a new system substituted under sub-section *(1)* or sub-section *(2)*, the Collector may fix the shares in which the water shall be enjoyed by the persons entitled to use the water-course.

Procedure applicable to occupation for extensions and alterations.

Cf. India Act, VIII of 1873, section 30.

23. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course and for the deposit of soil from water-course clearances.

Costs of executing works under section 21 or section 22, by whom payable.

24. In every case under section 21 or section 22, the cost of executing or completing the works shall be payable by such person or persons deriving benefit from the water-course as the Local Government may, by general or special rule, direct and shall be recoverable by the Collector as if it were an arrear of land-revenue.

Power of Government to suspend or extinguish rights in or over any scheduled canal on payment of compensation.

Cf. Regulation IV of 1898, section 23.

25. *(1)* The Local Government may at any time suspend or extinguish any right to which any person is entitled in or over any scheduled canal if the exercise of such right is prejudicial to the interests of other irrigators or to the good management, improvement or extension of the canal.

(2) In every such case the Local Government shall pay or cause to be paid to the person whose right is suspended or extinguished, reasonable compensation in money, land, or water-supply to be assessed by the Collector who, in making such assessment, shall, as far as may be, have regard to such person's wishes in respect of the nature of the compensation. In assessing such compensation the Collector shall have regard to the character of the right, the period during which it has been enjoyed and the damage likely to be occasioned by its suspension or extinction and shall in other respects, as far as may be, be guided by the provisions of the Land Acquisition Act, 1894, and may, for the purposes of inquiring into claims and assessing compensation therefor, exercise all or any of the powers by that Act conferred upon the Collector.

India Act I of 1894.

Power of Local Government to direct supply of labour by irrigators.

Cf. Regulation IV of 1898, section 8.

26. The Local Government may, by notification, direct that the irrigators from any scheduled canal or any two or more adjacent canals shall be bound to furnish labour free of cost to Government for the purpose of effecting the annual silt clearance of such canal or canals or of maintaining such canal or canals

in a state of efficiency or of executing any work necessary thereto, in either of the following cases, namely :—

(a) whenever such irrigators are bound, by a condition entered in the record-of-rights of such canal or canals or of the estates supplied with water therefrom or by established custom, to furnish such labour, or

(b) whenever the land-owners who are responsible for the payment of more than half the land-revenue assessed on the land irrigated from such canal, or canals, agree to undertake to supply such labour.

Powers of Collector upon issue of notification under section 26.

27. Upon the issue of a notification under section 26 the Collector may, from time to time, by general or special order,—

(a) determine the number of labourers to be provided or the amount of work to be performed by each irrigator;

(b) regulate the attendance, distribution and control of the labourers provided or the manner of the performance of the work;

(c) assess and recover, as if it were a fine, compensation from any person who fails to comply with an order passed under this section; and

(d) fund all compensation so recovered and expend it on the provision of hired labour for any of the canals to which the notification applies, or on any other purpose connected with the well-being thereof:

Provided that the compensation assessed as aforesaid shall not exceed one rupee for each day's labour of each of the labourers in respect of whom default has occurred.

Cf. Regulation IV of 1898, section 19.

Power to prepare record for canal.

28. *(1)* The Collector shall, whenever the Local Government may, by special order or by the rules made under the authority of this Act, so direct, prepare or revise for any canal a record showing all or any of the following matters, namely :—

(a) the custom or rule of irrigation;

(b) the rights to water and the conditions on which such rights are enjoyed; and

(c) the rights as to the erection, repair, reconstruction and working of mills, and the conditions on which such rights are enjoyed.

(2) Entries in the record so prepared or revised shall be relevant as evidence in any dispute as to the matters recorded, and shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor:

Provided that no such entry shall be presumed to be true which limits any of the powers conferred on Government by this Act.

(3) When a record showing all or any of the matters enumerated in sub-section *(1)* has been framed at any settlement of the land-revenue already sanctioned by the Government and has been attested by a Revenue Officer, such record shall be deemed to have been made under this section.

(4) Every person interested shall be bound to furnish to the Collector, or to any person acting under the direction of the Collector, all information necessary for the correct preparation of a record under this section.

(5) The provisions of Chapter IV of the Punjab Land Revenue Act, 1887, shall, so far as may be, apply to the preparation and revision of every such record. Act XVII of 1887.

Water-rates.

Levy of water-rates.

29. *(1)* Subject to the terms of any agreement made by it with the owners, the Local Government may by notification direct that a rate shall be levied in respect of all land irrigated from a canal included under Schedule I.

(2) Such rate shall be leviable from such persons deriving benefit from the said canal as the Local Government may, by general or special rule, direct.

(3) The Local Government may, by notification, also impose a special rate for all water obtained—

(a) through a breach in the banks made intentionally and without authority or in any unauthorised manner;

(b) from or through a water-course if and so long as the supply has been and is intentionally increased or diverted in an unauthorised manner.

(4) The proceeds of any rate levied under this section shall be disposed of in such manner as the Local Government may, by general or special rule, direct.

CHAPTER IV.

PROVISIONS APPLICABLE TO CANALS INCLUDED UNDER SCHEDULE II.

This Chapter applicable only to canals under Schedule II.

30. The provisions of this chapter shall apply only to canals for the time being included under Schedule II.

Consent or decision of a majority in number or interest of the share-holders of a canal to prevail.

31. *(1)* Whenever, in respect of any canal, any question arising under this Act or the rules made thereunder, is to be determined by the consent or decision of the owner, and the ownership of such canal is vested in more persons than one, the consent or decision of the share-holder or share-holders who possess the larger interest shall prevail and be binding upon every person who possesses any share in the ownership of such canal.

(2) If the interests are equally divided the Collector shall decide, and his decision shall similarly prevail.

Settlement of disputes arising in regard to canals.

32. *(1)* When a dispute arises between two or more share-holders in the ownership of any canal, or between two or more persons entitled to the use of the water of any such canal, or between any such share-holders and any such persons as aforesaid, the Collector may inquire into the same, either of his own motion or on the application of any such share-holder or person.

(2) When, upon an application or otherwise, the Collector thinks fit to inquire into any such dispute, he shall give notice to the persons interested that, on a day to be named in such notice or on any subsequent day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute.

(3) Upon the day so named or any such subsequent day as aforesaid the Collector shall proceed to hear and determine the dispute as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887, and the provisions of that Act regarding appeals, revisions and reviews shall be applicable.

India Act, XVI of 1887.

Power of the Collector, in certain cases, to declare or appoint a manager of a canal.

33. Where there are numerous share-holders in the ownership of a canal, or where it is difficult to ascertain the persons who are share-holders or the extent of the interest of the share-holders, or any of them, the Collector may, if there is no proper manager or representative, require by a proclamation or notice in writing, the share-holders to nominate, within a given period, a person as manager of the canal and their representative, and upon their failure to do so, or to nominate a fit person, may himself proceed to declare what person shall be deemed to be, or may appoint any person to be, the manager of such canal and the representative of the share-holders, and the person so nominated or declared or appointed may thereupon do all acts and things which the share-holders or any of them might lawfully do in regard to the management of such canal, and all acts and things so done by him shall be binding upon every person who possesses any share in the ownership of such canal.

Power of Local Government to apply the provisions of section 28 to any canal.

34. The Local Government may, by notification, declare all or any of the provisions of section 28 (as to the preparation and revision of records) to be applicable to any canal, and, upon any such declaration being made, such provisions shall, as far as may be, apply accordingly.

Power to assume control or management, or both, of a canal.

35. *(1)* It shall be lawful for the Local Government, by notification, to assume the control or management, or both, of any canal—

(a) if the owner of such canal consents thereto, and subject to the condition (if any) on which such consent may in any case be given;

(b) if after such inquiry as to it may seem fit, the Local Government is satisfied that the control or management exercised by or on behalf of the owner is such as causes grave injury to the property or health of persons owning lands in the vicinity;

(c) in the event of any wilful and continuous breach of orders issued under section 38 of this Act.

(2) When the control or management or both, of any canal is assumed under the provisions of sub-section *(1)*, the Local Government may exercise all or any of the rights and powers in regard thereto which, but for such assumption, the owner might lawfully have exercised, and may delegate such powers or any of them to any person, but Government shall, in the absence of any decree or agreement to the contrary, be liable to account, from time to time, to such owner for the net profits thereof and may at any time restore the canal to the owner.

Right of owner upon such assumption, to demand that the canal shall be acquired by the Government.

36. When the control or management. or both, of a canal shall be assumed by the Local Government under clause *(b)* or clause *(c)* of sub-section *(1)* of section 35, and such control or management shall have continued for a period exceeding twelve years, the owner thereof may, by notice in writing delivered to the Collector, require that the Government shall acquire such canal.

Power to acquire canal on demand of the owner.

37. On receipt of notice under section 36 the Local Government shall by notification declare that the said canal will be acquired after a day to be named in the said

Cf. India Act, VIII of 1873, section 5.

notification, not being earlier than three months from the date thereof and after the issue of such notification the Collector shall proceed as in sections 43 and 44 provided.

Power to fix the limits of irrigation and water-rates and to regulate the distribution of water.

38. The Local Government may, in respect of any canal, issue orders as to all or any of the following things, namely—

(a) fixing the limits within which land may be irrigated from such canal;

(b) fixing, as it may deem equitable, the amount and character of the water-rates leviable by the owner, and the conditions on which such rates are to be paid, suspended, remitted or refunded;

(c) regulating the supply and distribution of the water to and from such canal:

Provided that if any land which has been continuously irrigated from the canal for three years previously is deprived of irrigation, or the income of the canal-owner from such canal is materially reduced by reason of any order passed under this section, the owners of such land or the canal-owner shall be paid by Government or by such persons as Government may determine such compensation as the Collector may consider reasonable.

Provided further that if the canal-owner has in the opinion of the Local Government exercised his powers as such in an arbitrary or inequitable manner he shall not be entitled to compensation under this section.

Collection, in certain cases, of water-rates of a canal by the Local Government.

39. *(1)* The Local Government may, at the request of the owner, undertake the collection of the water-rates leviable in respect of a canal, and may, thereupon,—

(a) regulate such collection and determine the persons by whom it shall be made;

(b) direct that by way of compensation for service rendered in making such collection, deductions shall be made not exceeding three per cent. of the amount collected.

(2) When, under the provisions of this section, the Local Government has undertaken the collection of the water-rates leviable in respect of a canal, no suit for the recovery of any such rates shall be instituted or maintainable without the permission, in writing (to be previously obtained by the intending plaintiff), of the Collector.

CHAPTER V.

PROVISIONS APPLICABLE TO ALL CANALS.

This chapter applicable to all canals.

40. The provisions of this chapter shall be applicable to all canals, whether included under Schedule I or under Schedule II.

Acquisition of land for canals.

41. *(1)* If, in the opinion of the Local Government, any land is required for the purposes of any canal or water-course it shall be deemed to be land required for a public purpose within the meaning of the Land Acquisition Act, 1894. *Cf.* Regulation IV of 1898, section 15. India Act I of 1894.

(2) Any person who has obtained the permission of the Local Government to construct, or who owns a canal, may apply in writing to the Collector to take up any land required for the purposes of such canal.

(3) If the Collector is of opinion that the application should be granted, he shall submit it, with his recommendation, for the orders of the Local Government.

(4) If, in the opinion of the Local Government, the application should, whether in whole or in part, be granted, it may direct the necessary action to be taken under the Land Acquisition Act, 1894: India Act I of 1894.

Power to acquire canal by consent or otherwise.

42. Whenever it appears to the Local Government expedient in the public interest to acquire any canal, the Local Government may by notification declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than three months from the date thereof. *Cf.* India Act VIII of 1873, section 5.

Notice as to claims for compensation.

43. As soon as practicable after the issue of such *notification the Collector* shall cause public notice to be given at convenient places stating that the Local Government intends to acquire the said canal as aforesaid and that claims for compensation in respect of the acquisition thereof may be made before him. *Cf.* India Act VIII of 1873, section 7.

Enquiry into claims.

44. *(1)* The Collector shall proceed to enquire into any such laims and to determine the amount of compensation, which should be given to the claimant. In assessing such compensation the Collector shall have regard to the history of the canal, the expenditure incurred thereon and the profits of the owner, and shall in other respects, be guided by the provisions of the Land Acquisition Act, 1894, and may, for the purpose of inquiring into claims and assessing compensation therefor, exercise all or any of the powers by that Act conferred upon the Collector. *Cf.* India Act VIII of 1873, section 10. India Act I of 1894.

Limitation of claims.

(2) No claim for compensation shall be enforceable after the expiration of one year from the date of the notice under section 43, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period. *Cf.* India Act VIII of 1873, section 9.

45. Subject to the tender and award of compensation to the owner or person interested in the said canal, when the Local Government acquires a canal, under section 37 or on the day named in the notification under section 43,—

Vesting of canal in the Government.

(a) the right, title and interest therein of the owner thereof shall forthwith cease and determine;

(b) such canal, subject to any rights to take water for irrigation which any person may have, shall forthwith vest in and be the absolute property of the Government.

46. With the consent of the parties, the Collector may, when assessing the amount of compensation to be paid, direct, in the case of an acquisition of land under section 41, that the property in such land shall remain with the owner subject to a right of user so long as the land is required for the purpose of the canal or water-course, compensation being awarded for the right of user only, or in the case of an acquisition of a canal, or of land for the purposes of a canal, that the compensation shall take the form in whole or in part of a right to a supply of water from the canal which has been acquired or for the purposes of which land has been acquired.

Assessment of compensation.

Cf. India Act VIII of 1873, section 55.

47. Whenever it appears to the Local Government that it is desirable in the interests of the owner of, or of the irrigators from, any canal to prevent the obstruction of any river or creek, such Government may, on such terms (if any) as to compensation as it may consider equitable, by notification published in the official Gazette, prohibit within the limit to be defined by such notification the formation of such obstruction or may, within such limits order the removal or other modification of such obstruction or may, by notification published as aforesaid, take power to regulate the flow of water in such river or creek whether by the construction of works or otherwise.

Power to prohibit obstructions of river or creek and to order their removal.

Cf. India Act VIII of 1873, section 56.

48. The Collector may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

Power to remove obstruction after prohibition.

If within the time so fixed such person does not comply with the order, the Collector may himself remove or modify the obstruction, and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

In any case in which such obstruction is not caused or controlled by any person, the Collector may himself remove or modify it.

49. (1) The Collector may, at any time, order the owner of any canal under Schedule II to — Cf. Regulation IV of 1898, sections 9—12.

Powers as to the construction and maintenance of works.

(a) repair and maintain, in a proper state, all or any embankments, protective works, reservoirs, channels, water-courses, sluices, outlets and other works connected with the canal;

(b) repair and maintain in a proper state any culvert, bridge, aqueduct or similar work at any time existing across, under, or over the canal;

(c) construct a suitable bridge, culvert, or similar work at any place across, under, or over the canal, for the purpose of providing communication with any public road or thoroughfare which was in use before the canal was made;

(d) construct suitable works for the passage of the water of the canal across, under, or over any public road or thoroughfare or any canal or drainage channel which was in use before the canal was made;

(e) construct a suitable regulator at or near the head of the canal where, for want of such regulator, an excessive supply of water may enter the canal or cause damage to it, or any crops, lands, roads or property in the neighbourhood.

(2) In the case of canals included under Schedule I, the Collector may call upon the irrigators from a canal to discharge any of the liabilities specified in sub-section (1) which the Local Government may have declared to attach to the irrigation from such canal or group of such canals.

(3) Every order under sub-sections (1) and (2) shall be in writing, and shall specify a reasonable time within which the works or repairs mentioned therein shall be completely executed.

50. If any order made under section 49 is not obeyed, to the satisfaction of the Collector, within the time therein specified, the Collector may himself execute or complete the execution of, or cause to be so executed or completed, all works specified in the order. Cf. Regulation IV of 1898, sections 9—12.

Power to construct works in case of default.

51. In the event of sudden and serious damage or urgent risk to a canal, or to property situate in the immediate neighbourhood thereof, or to irrigation carried on therefrom, or to the public traffic, the Collector may, after giving a previous notice, execute or cause to be executed such works, as he may think necessary, in order to remedy or prevent such damage, and may require any irrigator to furnish as many labourers as to the said Collector may seem reasonable and necessary for the immediate execution of such works. Any order passed under the authority of this section shall be final.

Power to construct works in cases of emergency.

Cf. Regulation IV of 1898, sections 9, 12, 15 and 17.

52. (1) When any land is acquired under the provisions of section 41, or when any work is executed by or under the orders of the Collector under the provisions of section 48 or section 49 or section 50, the cost of acquiring such land or of executing such work, as the case may be, shall be recoverable—

Apportionment and recovery of the cost of land acquired or works executed.

(a) if the canal is included under Schedule II,—from the owner thereof; or

(b) if the canal is included under Schedule I,—from the irrigators or such of them as are, in the opinion of the Collector, benefited or likely to be benefited by the acquisition or equitably liable for the whole or any part of the cost of executing the work; and

(c) if such appropriation is permitted by the record-of-rights specified in section 26 or section 28 of this Act,—from the fund referred to in section 27 of this Act.

(2) When the cost of acquiring any land or of executing any work is, under the provisions of sub-section (1), recoverable from the owner of any canal or from the irrigators therefrom, or any of them, it shall be lawful for the Collector to apportion such cost as to him may seem equitable, among all or any of the persons liable for the whole or any portion thereof and such apportionment shall be final.

(3) When the cost of acquiring such land has been paid, such land, if acquired in full proprietary right, shall become the property of the canal-owner.

Cf. Regulation IV of 1898, section 16 and section 3 (4).

53. (1) The Local Government may, by general or special order, prohibit or regulate the construction of new, and regulate the use of existing, mills upon canals, and the appropriation of the water of canals for working mills.

Power to regulate mills.

(2) In this section the expression "mill" means any contrivance whereby the water power of any canal is used or employed for grinding, sawing or pressing, or for driving or working machinery, or for any other purpose, and includes all subsidiary works and structures connected with any such contrivance except the canal itself.

54. Except in so far as a contrary intention is expressed, sections 13 to 16 (both inclusive) of the Punjab Land Revenue Act of 1887 shall apply to all proceedings under this Act.

Application of sections 13 to 16 of Land Revenue Act, 1887.

India Act XVII of 1887.

55. No Civil Court shall have jurisdiction in any matter which a Revenue Officer or Revenue Court is empowered by this Act to dispose of, or take cognizance of the manner in which the Local Government or any Revenue Officer or Revenue Court exercises any powers vested in him by or under this Act, except in regard to the amount of compensation where the Land Acquisition Act, 1894, is held to apply under sections 10, 11, 12, 25, 38, 41 and 44 of this Act.

Exclusion of jurisdiction of Civil Court except under Land Acquisition Act.

India Act I of 1894.

56. (1) The Local Government may appoint any person or any class of officials to perform any functions, or to exercise any powers, by this Act or the rules made thereunder conferred on or vested in the Collector, Commissioner, Financial Commissioner or such Government.

Power to appoint officers to exercise functions under this Act.

Cf. Punjab Act I of 1898, sections 12–17.

(2) Such appointments may be made in respect of any canal or of all or any of the canals situate within any specified local area.

57. For the purposes of every inquiry made and proceeding taken under this Act, the Collector shall have power to summon and enforce the attendance of and examine parties and witnesses and compel the production of documents, and for all or any of these purposes may exercise all or any of the powers conferred on a Civil Court by the Code of Civil Procedure, 1882, and every such inquiry shall, for the purposes of the Indian Penal Code, be deemed to be a judicial proceeding.

Powers of Collector in certain proceedings under the Act.

Cf. Regulation IV of 1898, section 13 (4).

India Act XIV of 1882.

India Act XLV of 1860.

58. In all cases under sections 7, 25, 53, 35, 37, 39 and 49 of this Act, the owners and other parties interested in the canal shall be given an opportunity of appearing before the Collector and of showing cause to the contrary.

Permission to owners and parties interested in any canal to object in certain cases.

59. Every summons, notice, proclamation and other process issued under this Act shall, as far as may be, be served or made in the manner provided in that behalf in sections 20, 21 and 22 of the Punjab Land Revenue Act, 1887.

Mode of serving notices and making proclamations.

ndia Act XVII of 1887.

[6]0. Save as otherwise expressly provided in this Act, no person shall be entitled to recover any compensation for anything at any time done or in good faith intended to be done in exercise of any power conferred by this Act.

Bar of compensation where not expressly allowed.

[Cf]. Regulation IV of 1898, sections [6] and 7.

61. *(1)* In any suit or proceeding in which any order passed under section 27 or an entry made in any record prepared under section 28 or section 34 is directly or indirectly called in question, the Court shall, before the final settlement of issues, give notice of the suit or proceeding to the Collector, and, if moved to do so by the Collector, shall make the Secretary of State for India in Council a party to the same.

Government to be party to certain suits and proceedings.

Bar of other suits against Government.

[Cf]. Regulation IV of 1898, section [1]2.

(2) Save as provided in sub-section *(1)* no suit shall lie against the Government in respect of anything done by the Collector or by any person acting under the orders of the Local Government, in the exercise of any power by this Act conferred on such Collector or Government.

62. All water-dues, water-rates and other charges at any time due by or to be collected from any person under any provision of this Act or under an agreement entered into by the owners of the canal or the person irrigating from it and all arrears of such water-dues, water-rates or other charges shall be recoverable as if the same were arrears of land revenue.

Power to recover water dues, water-rates and other charges by revenue process.

63. Any or all of the powers exerciseable by the Local Government under this Act in respect of any canal, river, creek, water-course or subsidiary works may be exercised by such Government in the case of any canal, river, creek, water-course or subsidiary works which is or are or may at any time be situate partly within and partly without the territories to which this Act extends and in respect of so much of any such canal, river, creek, water-course or subsidiary works as is or are within those territories; and in the case of any such canal, river, creek, water-course, or subsidiary works the Local Government may by notification, and notwithstanding the provisions of section 2, declare what sections of this Act shall be applicable thereto.

Powers as regards canals, creeks, water-courses, and subsidiary works situate partly without the territories to which this Act extends.

64. No suit, prosecution or other legal proceeding shall lie against any person for anything done, or intended to be done in good faith, under this Act or the rules made thereunder.

Protection of persons acting under the Act.

Cf Regulation IV of 1898, section 25.

65. Whoever without proper authority and voluntarily does any of the acts following, that is to say,—

Offences under the Act.

Cf. India Act VIII of 1873, section 70.

(1) damages, alters, enlarges, or obstructs any canal;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal;

(3) interferes with or alters the flow of water in any river, creek or stream so as to endanger, damage or render less useful any canal;

(4) being responsible for the maintenance of any water-course or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom or uses such water in an unauthorized manner;

(5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(6) being liable to furnish labourers under this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him;

(7) being a labourer liable to supply his labour under this Act, neglects, without reasonable cause, so to supply and to continue to supply his labour;

(8) destroys or removes any level-mark or water-gauge fixed by the authority of a public servant;

(9) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom;

(10) disobeys any order or proclamation issued under this Act, or commits any breach of any rule made thereunder;

shall be liable on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees or to imprisonment not exceeding one month, or to both.

Cf. India Act VIII of 1873, section 73.

Power to arrest without a warrant.

66. Any person in charge of or employed upon any canal managed by Government officers or by a District Board may remove from the lands or buildings belonging thereto, or may take into custody without a warrant, and take forthwith before a Magistrate, or to the nearest police station, to be dealt with according to law any person who, within his view, commits any of the following offences :—

(1) wilfully damages or obstructs any canal;

(2) without proper authority interferes with the supply of, or flow of water in or from any canal or in any river or stream, so as to endanger, damage or render less useful any canal.

Definition of 'canal' for purposes of sections 65 and 66.

67. In sections 65 and 66 the word 'canal' shall (unless there be some thing repugnant in the subject or context) be deemed to include also all lands occupied for the purposes of canals and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce upon such lands. Cf. India Act VIII of 1873, section 74.

Power to make rules.

68. (1) The Local Government may make rules, consistent with the foregoing sections of this Act, regulating any matter in regard to which any power is, by this Act, conferred upon the Local Government, or upon any officer of Government, and generally to carry out the purposes of this Act. Cf Regulation IV of 1898, section 20.

(2) All rules made under sub-section (1) shall be so made after previous publication in the Gazette.

SCHEDULE I.

SCHEDULE II.

H. A. B. RATTIGAN,

Secretary, Legislative Council.

C. L. TUPPER,

Member.

STATEMENT OF OBJECTS AND REASONS.

THE object of the present Bill is to legislate for those minor canals in the Province to which the provisions of the Northern India Canals and Drainage Act of 1873 either were never intended to have any application or are, if applicable under the definition of "canal" in sub-section (1) of section 3 of that Act, to a large extent inappropriate. The elaborate provisions of Act VIII of 1873 are in their entirety not suitable, and when suitable are insufficient, in the case of many minor irrigation works which are controlled by, and under the management of, Government officers, while they were never intended to apply at all to those canals which are under private management, but are controlled by Government in the interests of the owners or persons deriving benefits therefrom, and on which State expenditure is confined to the maintenance of a small supervising establishment and all realizations for water-advantages are appropriated to the benefit of the owners of the canal and to its maintenance and are not credited to the State. The present Bill, which is to be self-contained and therefore embodies such of the provisions of Act VIII of 1873 as are considered necessary or suitable to some of the canals which will be governed by its provisions, is intended to make better provision for the exercise of control over, and for the regulation of the management of, both these classes of canals, the degree of such control and management varying as the canal is one under Schedule I or one under Schedule II of the Bill. Power is given to the Local Government by notification to include any "canal," as defined in clause 3 (ii) of the Bill, under either Schedule I or Schedule II or to transfer a canal from one schedule to the other schedule, whereupon the provisions of the Bill applicable to canals included under such Schedule or such of those provisions as the Local Government may direct shall apply to such canal. Ordinarily and as a general rule a canal controlled by Government and managed by Government officers or District Boards will in practice be included under the first, and a canal under private management but subject to Government control will be included under the Second Schedule, but this will not be so necessarily, and the decision in every instance is left to the discretion of the Local Government. The Local Government may also, by notification, exclude from the operation of the Bill any canal which has been included under either Schedule I or Schedule II, but so long as a canal is included under one or other of these Schedules nothing in the Northern India Canals and Drainage Act, of 1873, is to apply thereto.

Among the matters for which provision is often necessary in the case of the minor canals, but rarely, if ever, in the case of the larger irrigation works which are managed by the Imperial Irrigation Department and for which Act VIII of 1873 was mainly designed are—

Cher labour arrangements.
Zar-i-nagha funds.
Records-of-rights.
Recovery of rates for special objects.
Settlement of disputes between right-holders.

Hitherto such matters have been provided for in Settlement engagements, and by agreement between Government and those interested in the maintenance of efficient irrigation arrangements, and, generally speaking, the good sense and co-operative spirit of the people have enabled the Government officers charged with the control of the works to conduct operations successfully. But with increased sophistication and the extension of the reign of statutory law it has become necessary in the interest both of Government, of right-holders, and of irrigators to secure a legal basis for what has heretofore rested merely on executive authority, and thus to maintain established and successful systems against invasion by recalcitrant individuals or minorities.

The right of Government to exercise control over private canals is based in part on the fact of the Government title to the water flowing in rivers and streams, which is asserted in the preamble of the Canal Act of 1873, and in part on the same fundamental principles which in India as in other countries have necessitated legislation for the control of railway, shipping, gas and water companies, and all corporations which are in the position of monopolists towards the public or a section of the public. The owner of a private canal is not, like the owner of an irrigation well, independent of relations with all persons outside the ring-fence of his own property. Even when the canal is constructed solely to irrigate the owner's land the interests of the State are involved in the detraction of water from the river or natural stream, and it is rarely the case that the supply channel can be constructed without its bed passing through land belonging to other persons. When, as is more commonly the case, irrigation is supplied not only to the canal-owners' lands, but also to whatever area, however owned, may be commanded by the available supply, relations arise which in the interest of canal-owners and irrigators, and of peace and good government generally, require to be controlled and regulated. Even with such powers as the Bill confers, cases may arise—and they have arisen in the past—in which mismangement on the part of the private canal-owner causes such public inconvenience as to justify Government stepping in and either managing the canal temporarily, accounting for surplus profits or acquiring it permanently under provisions analogous to those of the Land Acquisition Act.

It is also very desirable to make provision in this Bill in respect of canals, rivers, creeks, water-courses and subsidiary works which are situate partly in this Province and partly in Sind or in a Native State such as Bahawalpur. For the proper maintenance of such canals, etc., and their protective works in a state of efficiency and to ensure the due supply of water thereto from the sources in British territory it is often found necessary to do such acts and to exercise such powers as are provided for in this Bill in respect of canals and subsidiary works situated in the Punjab, and it is intended by clause 63 to empower the Local Government to give such assistance to the authorities concerned as will suffice for the maintenance of those canals which are supplied with water from canals situated in this Province.

The provisions of the Bill will now be briefly noticed.

CHAPTER I.

Preliminary.

Clause 1 (1).—The term "Minor Canals" conveniently indicates that the measure relates to canals other than the larger projects managed by the Irrigation Department. The term is not intended to have any technical signification.

Clause 2.—This is new and has already been commented on above.

Clause 3 (iii).—This definition is intended to be read with the proviso to clause 6 (*i*) and the object is to require canal-owners or other persons to obtain the permission of the Collector to the extension of irrigation from a private canal. Practical experience in the Shahpur District has demonstrated the necessity of a provision of this kind.

Clause 3 (iv).—It is desirable to have power to prohibit, or order the removal of obstructions in rivers or creeks, more especially in view of the frequent complaints from Bahawalpur and Sind regarding obstructions in rivers and creeks in the Punjab from which canals in those territories are fed. Provision has accordingly been made for this purpose in clauses 47 and 48 (which are modelled upon sections 55 and 56 of Act VIII of 1873) read with clause 63. The term "creek" as used in these clauses is, therefore, defined in this sub-clause.

Clause 3 (ix).—The owner of a private canal or the irrigator therefrom has no property in the water of the river from which his canal takes off, and the term "water-due" is intended to designate the payment which the owner or irrigator has to make to Government for the use of such water.

CHAPTER II.

Construction of Canals and Water-dues.

Clauses 4 to 6—Contain a prohibition against the construction of a new canal which is intended to be fed by the water of any river or stream flowing in a natural channel or of any lake or other collection of still water notified in this behalf by Government. No vested interests are here affected and the prohibition is strictly limited, for it is only in respect of the particular rivers or other natural bodies of water which have been duly notified in this behalf that the prohibition to construct a new canal without permission applies. The right by which Government assumes the powers herein provided has already been explained. The proviso to clause 6 (*1*) must be read in connection with clause 3 (*iii*).

Clause 7 (i).—Assuming that permission has been accorded for the construction of a canal which is intended to be fed by the water of a river or other natural body of water, it is reasonable that Government should have the right to assess and levy water-dues in respect of the water by which such canal is allowed to be fed, but in which the canal-owner has no right of property. As regards canals made before the Bill becomes law, the right of Government to assess and levy such dues is strictly limited to the three cases specified. Ordinarily the method of assessing and levying such water-dues will, when the canal-owner happens to be one and the same person as the owner of the lands irrigated by the canal, be in the form specified in clause 7 *(2)* (*a*), but if the owner of the canal is not the owner of such lands, it will be in the form specified in clause 7 *(2)* (*b*), but sub-clause (*4*) expressly leaves it to the Government to decide as to the persons deriving benefit from the canal liable to pay the dues.

CHAPTER III.

Provisions applicable to Canals under Schedule I.

Clause 9.—The following explanation of the corresponding clause of the Peshawar Canals Regulation may be quoted here:—

> This is an important section and may be regarded as an addendum to section 32 of the Canal Act of 1873. In the working of a complicated irrigation system in a tract in which sudden floods or other unforeseen contingencies may necessitate, in the interests of the general body of irrigator, temporary departures from the recorded custom of irrigation, it is most desirable to protect the Canal authorities from interference on the part of litigiously inclined persons complaining of merely technical infringements of rights. While, therefore, giving to the Collector plenary power to override recorded rights in the cases contemplated, it is laid down that the exercise of such power shall not *substantially* diminish the benefits to which any person may be legally entitled. There is thus a safeguard against any real and substantial injury, as distinguished, for instance, from the fancied injury of a right-holder whose supply of water being much beyond his requirement is reduced in the interests of another who is suffering from a short supply.

Clause 9 (1) (b)—Does, however, give the Collector power to stop the supply of water whenever a water-course sluice or out-let is not properly maintained or whenever a water-course, sluice or outlet is subject to wilful damage or enlargement and to that extent goes further than the clause in the Peshawar Canals Regulation above referred to. This is a very necessary provision and is on the lines of section 32 (*a*) *(2)* of Act VIII of 1873.

Clause 9, sub-clause (2).—The justification of this sub-clause lies not only in the fact that the power of altering the distribution of the water-supply is one that is already exercised in practice, but also in the fact that the regulation of such distribution is essential for the purpose of securing an efficient *general* supply and of preventing the evil of water-logging. As any action that may be taken under this clause will be for the benefit of the community, the individual whose supply may have been diminished in order to maintain a proper general distribution, cannot fairly claim to be compensated by Government, and, apart from any other objection, to allow claims for compensation in such cases would be to render the provisions of the clause entirely nugatory, as the Local

Government could scarcely be expected to act under those provisions if it were likely to be flooded with such claims and probably embarrassed by consequent litigation. On the other hand, whenever the person liable for the payment of the ordinary charges for the use of water has suffered a sensible diminution of his supply he should obviously be relieved of a proportionate part of his liability.

Clause 9, sub-clause (3)—Is adopted from the Northern India Canals and Drainage Act, 1873, and seems to be very necessary.

Clauses 10 and 11—Merely reproduce, with necessary modifications, sections 14 and 15 of Act VIII of 1873.

Clause 12.—This clause provides for obtaining immediate possession of land to be acquired without waiting for the preliminary notification under Act I of 1894 in certain cases. The cases in which the acquisition of land for new heads or for other emergent purposes on inundation canals is most urgent, are very frequent and justify a departure from the procedure under the Land Acquisition Act. A similar section is made applicable by the Peshawar Canals Regulation of 1898 to all canals in the Peshawar Division, including the Swat Canal.

Clause 13—Gives authority to the Collector or any person acting under his orders to occupy land adjacent to a canal (1) for depositing soil excavated from a canal, (2) for excavating earth for repairs to the banks of canals, and provides (3) for the payment of compensation in such cases to be rendered as provided by clause 10 of the Bill, and enacts that compensation is to be allowed for any damage that may be occasioned. This clause has been framed to meet difficulties which are experienced when water is urgently required and repairs have to be done quickly. Sub-clause *(2)* gives the owner of any land that has been occupied for any purpose under sub clause *(1)* for a period exceeding three years the right to insist on such land being permanently acquired.

Clauses 14, 15, 16 and 17—Merely reproduce, with necessary modifications, the provisions of sections 20, 21, 22 and 23 of Act VIII of 1873.

Clause 18—Provides for the settlement of disputes regarding the use of water or the use and maintenance of water-courses and for the determination of objections to applications under clause 15 or 17. In all such cases the Collector shall give notice of the hearing to all persons interested and on a specified date shall proceed, to adjudicate, as a Revenue Court under the provisions of the Punjab Tenancy Act of 1887, upon the matter in dispute. Objections and disputes of the kind referred to in this clause can be determined more expeditiously and satisfactorily by the Collector than by the Civil Courts, but in order that the proceedings of the Collector shall not be unduly summary and to avoid the possibility of hardship in any particular case, it is provided that he shall sit as a Revenue Court when hearing such disputes or objections and that his decision shall be open to appeals, revisions or reviews in the same manner and to the same extent as the orders of a Revenue Court ordinarily are under the provisions of the Punjab Tenancy Act, 1887.

Clauses 19 and 20—Reproduce, with slight modifications, the provisions of sections 28 and 29 of Act VIII of 1873.

Clause 21—Is new, and empowers a Collector to construct or repair or improve sluices and outlets and, if he so thinks fit, to construct a new water-course subject to the provisions laid down in clause 41.

Clause 22—Is new, and gives power to an owner or the Collector on his own motion where several water-courses run for a long distance side by side and the economical use or proper distribution of water is thereby prevented or hampered, to insist that all the water shall be allowed to run through one water-course or that an approved system of distribution shall be substituted. The Collector may if necessary himself execute all necessary works in which case the cost will be recovered as in clause 24 provided. The equitable distribution of water after the realignment has been effected is provided for in sub-clause (3). This new clause has been added as it has been found by experience that some of the water-courses running so close together have had to be abandoned as they silted up, and there was no ground on which to place the silt, or if there was, the expense was so great of conveying it over the other water-courses that it would not pay the owners to incur it.

Clause 23—Reproduces without alteration the provisions of section 30 of Act VIII of 1873.

Clause 24.—The object of this clause is to give practical effect to the powers of management and control conferred on the Collector under this Bill. It has often been found that improvements have been retarded or prevented by want of funds, and the provisions of this clause, read with clauses 21 and 22, will enable the Local Government to

effect such improvements and, if it thinks fit, to recover the expenses from such persons deriving benefit therefrom as, having regard to the history of the canal and the incidence of the water-rates, it may consider properly liable for the same. The result is likely to be economy of labour and water-supply, and beneficial extension of irrigation.

Clause 25—Is intended to provide for cases in which interference with recorded rights may result in substantial diminution of benefit to which a person is legally entitled and in respect of which a claim for compensation would equitably arise. It may occasionally occur that the existence of private rights of particular individuals becomes a menace to the interests of the irrigators in general, and the extinction of such rights under the procedure here contemplated would then be necessary. By sub-clause *(2)*, however, it is provided that in every such case compensation shall be awarded to the person whose right is suspended or extinguished, and, as in assessing such compensation, the peculiar circumstances of canals necessitate the consideration of matters additional to those specified in section 23 of Act I of 1894, certain guides to assessment have been provided which are likely to prove of practical value.

Clauses 26 and 27—Make provision for controlling and regulating the system of clearance of canals by the labour of the people. It has been decided that rules in this behalf cannot be made under Act VIII of 1873. The custom which it is sought to legalize is one which prevails in many districts of the Punjab. It is one which is thoroughly understood and acquiesced in by the people generally, and it is not proposed to introduce it anywhere except where it already exists or in accordance with the wishes of the persons interested. The broad principle underlying this system is that it is more in the interests of the great majority of the irrigators and of economical administration that the canal clearance works should be done by their own labour and that they should escape water-rates than that they should have to pay water-rates, from the proceeds of which the clearance work would be carried out by hired labour. It will be observed that provision is made to meet the case of those who prefer to commute their obligations to furnish labour by a cash payment, so that the system cannot be described as one of forced labour.

Clause 28.—Records of the nature contemplated in this clause already exist for many canals in a very complete and elaborate form. They are appealed to in all irrigation disputes, and are locally regarded as documents carrying the weight of authority. It is on all hands considered desirable that to these records the same presumption of truth should attach as is provided in the case of entries in records-of-rights by section 44 of the Land Revenue Act, 1887. Rule 202, under the Land Revenue Act, it is true, provides for the record of "customs relating to the irrigation of land" and "customs relating to mills, tanks, streams or natural drainages" among the matters included in the *wajib-ul-arz* or village administration paper, but this document and the statement of rights of irrigation which forms a part of the standing record-of-rights are prepared for each estate separately, whereas irrigation records are generally prepared for each canal.

Clause 29 (1) and (2)—Provide for the levy of water-rates in respect of all lands irrigated from a canal under Schedule I, and empower Government by general or special rule to direct from what persons, deriving benefit from the said canal, such rate shall be leviable. These sub-clauses correspond generally with section 31 of Act VIII of 1873.

Clause 29 (3)—Is intended to define certain cases in which an *abzai* or waste-of-water special penal rate can be levied Such rate can at present be levied generally under the rules made under Act VIII of 1873.

CHAPTER IV.

Provisions applicable to Canals included under Schedule II.

Clause 31—Provides that the consent or decision of the share-holder or share-holders who possess the larger interest in a canal shall be binding upon every other share-holder in all cases in which any question arising under the Bill or rules made thereunder is to be determined by the consent or decision of the owner. If the interests of the share-holders are equally divided, the decision is to rest with the Collector.

Clause 32—Is similar in its general purport to clause 18 and makes provision for the settlement of disputes by the Collector sitting as a Revenue Court under the provisions of the Punjab Tenancy Act of 1887.

Clause 33—Is intended to prevent the whole working of a canal being paralysed by disputes or uncertainty as to the person or persons in whom the management is to vest, and enables the Collector in certain cases to declare what person shall be deemed to be, or to appoint a person to be, the Manager of such canal and the representative of the share-holders.

Clause 34—Enacts for canals under Schedule II a provision corresponding to clause 28 in the cases of canals under Schedule I.

Clause 35—Enables the Government to assume or to delegate to a person the management of a canal in certain cases, but in all such cases the Government, in the absence of any decree or agreement to the contrary, will remain liable to account to the owner for the net profits of the canal.

Clause 36—Gives the owner of a canal, of which the management has been assumed by Government, under the preceding clause, a right to demand that the Government management shall be converted into permanent acquisition, with payment of compensation, when the period of management has extended beyond 12 years.

Clause 37—Is largely based on section 5 of Act VIII of 1873, and provides for the procedure to be followed when a canal is to be acquired on the demand of the owner.

Clause 38—Is important and enables Government to protect irrigators from arbitrary action on the part of canal-owners who might take advantage of their position as monopolists to withhold the water-supply or enhance the charges therefor in a capricious and inequitable manner. It is thought preferable to provide that the Local Government shall proceed by *orders* rather than by *rules*, as the circumstances of the cases which would arise are too various to admit of any uniform set of instructions. The enforcement of obedience to such *orders* is provided for in clause 65, and clause 35 (*1*) (*c*) makes provision for the consequences of a wilful and continuous breach of the said orders. Unless the conduct of the canal-owner has been such as to disentitle him to consideration, compensation is to be paid whenever by reason of an order under this clause the land is deprived of irrigation or the income of the canal owner for such canal is materially reduced.

Clause 39—Is framed in the interests of canal-owners and enables them to enlist the assistance of the Collector in the recovery of their just dues from the irrigators.

CHAPTER V.

Provisions applicable to all canals.

Clause 41—Makes the Land Acquisition Act of 1894 applicable in the case of land required for a canal or water-course under either Schedule I or Schedule II.

Clause 42—Enables Government to acquire a canal whenever it appears expedient that such canal shall be acquired.

Clauses 43 and 44—Are based on sections 5, 7, 9 and 10 of Act VIII of 1873 and make provision for the procedure to be followed in cases of acquisition of canals under the provisions of the Bill.

Clause 45—Provides for the permanent vesting in Government of a canal acquired under clause 37 or clause 42.

Clause 46.—If the owner consents, the form which compensation in respect of the acquisition of land or of a canal under the provisions of the Bill may take may be in whole or in part of a right to a supply of water.

Clauses 47 and 48—Are based on sections 55 and 56 of Act VIII of 1873. The necessity for these provisions has been explained under clause 3 (*4*) above.

Clauses 49 to 52—Impose upon owners of any canal under Schedule II and in certain cases upon irrigators from a canal under Schedule I the duty of keeping the canal banks in repair, of providing the public with the means of crossing the canals, and of passing the canals over or under roads. The obligation is an obvious one in the case of private canals. In the case of the "larger" canals which are not regulated by this Bill the duty is generally assumed by Government, but in the case of canals included under Schedule I of the Bill occupier's rate is not levied and Government levies no fund from which the cost of such works could be defrayed. Hence it may be necessary to call upon irrigators to carry out the necessary works. If they, or in the case of canals under Schedule II the owners, fail to do so, and in any case if the matter is urgent, provision is made for the Collector to do what is needful and to recover the cost from those who are liable. Provision has also been made in *clause* 51 to enable the Collector in cases of emergency to call upon the irrigators to furnish as many labourers as the Collector may deem necessary for the immediate execution of the work. A somewhat similar provision is to be found in section 65 of Act VIII of 1873.

Clause 53.—This clause empowers Government to regulate the construction and use of mills. The diversion and misappropriation of water by mill-owners has often been found to give rise to disputes and cause inconvenience and a statutory power to regulate mills is necessary. It may be thought that the powers of preventing obstruction given by section 70 of the Canal Act would suffice, but these powers can only be exercised after the obstruction actually takes place. It is in every way preferable that the obstruction caused by a mill should be prevented beforehand rather than that the mill-owner having incurred the expense of erection should be compelled to demolish the structure.

Clause 54—Makes sections 13 to 16 of the Punjab Land Revenue Act, 188[illegible], applicable (unless a contrary intention is expressed) to all proceedings under this Bill, and thereby enacts a well-known form of procedure which persons affected by this Bill can adopt.

Clause 55—Excludes the jurisdiction of the Civil Courts in reference to decisions and orders passed under the authority of this Bill, except so far as such orders may be affected by any procedure under the Land Acquisition Act which has been made applicable to this Bill.

Clause 56—Gives power to the Local Government to appoint Canal Officers and other persons to perform the functions and exercise the powers conferred on or vested in the Collector, Commissioner, Financial Commissioner or the Local Government. Read with clause 54, this clause will have the effect of making the provisions of sections 13 to 16 of the Punjab Land Revenue Act, 1887, applicable to the proceedings of all persons appointed under it and will enable the Local Government to appoint such persons as it may think fit to exercise appellate or revisional jurisdiction in respect of the proceedings of persons appointed to perform the functions of Collectors under the Bill.

Clause 57—Defines the powers of Collectors in certain cases.

Clause 58—Gives permission to owners and other parties interested in the canal to object and appear before the Collector to show cause against certain specified orders.

Clause 59—Prescribes the mode of serving notices, &c.

Clause 60—Bars compensation where not expressly allowed under the Bill.

Clause 61—Directs that Government shall be made a party to any suit or proceeding which may be instituted under the powers of clauses 27,28 and 34 of the Bill.

Clause 62—Provides for the recovery by revenue process of water-rates and other charges leviable under any provision of the Bill or under an agreement entered into by the owners of, or irrigators from, a canal.

Clause 63—Has been already explained in the preliminary remarks and under clause 3 (*4*).

Clause 64—Protects persons acting in good faith under the authority of this Bill or rules made thereunder.

Clauses 65, 66 and *67*—Are taken with slight modifications from sections 70, 73 and 74 of Act VIII of 1873. They particularise the offences made punishable under the provisions of the Bill, give power to certain persons and in specified circumstances to arrest without a warrant, and define the term canals for the purposes of clauses 65 and 66.

Clause 68—Gives the Local Government the very necessary power to make rules consistent with the provisions of the Bill.

H. A. B. RATTIGAN,
Secretary, Legislative Council.

C. L. TUPPER,
Member.

Punjab Government Press, Lahore—31-12-03—725.